रजिस्ट्री सं० डी. 221

REGISTERED No. D. 221

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 62] नई दिल्ली, शनिवार, दिसम्बर 11, 1965/अग्रहायण 20, 1887
No. 62] NEW DELHI, SATURDAY, DECEMBER 11, 1965/AGRAHAYANA 20, 1887

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 11th December, 1965:—

I

BILL NO. XVIII OF 1965

A bill to amend the Maternity Benefit Act, 1961.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

1. This Act may be called the Maternity Benefit (Amendment) Act, 1965. Short title.

53 of 1961.

2. In section 2 of the Maternity Benefit Act, 1961 (hereinafter referred to as the principal Act), in sub-section (2), for the words "Nothing contained in this Act", the words, figure and letter "Save as otherwise provided in section 5A, nothing contained in this Act" shall be substituted. Amendment of section 2.

Insertion of new section 5A.

3. After section 5 of the principal Act, the following section shall be inserted, namely:—

Continuance of payment of maternity benefit in certain cases.

"5A. Every woman entitled to the payment of maternity benefit under this Act shall, notwithstanding the application of the Employees' State Insurance Act, 1948, to the factory or other establishment in which she is employed, continue to be so entitled until she becomes qualified to claim maternity benefit under section 50 of that Act.".

34 of 1948.

STATEMENT OF OBJECTS AND REASONS

The Maternity Benefit Act, 1961 does not, by reason of the provisions of sub-section (2) of section 2 thereof, apply to any factory or other establishment to which the provisions of the Employees' State Insurance Act, 1948, apply. Consequently, a woman worker employed in a factory or other establishment and entitled to maternity benefit under the Maternity Benefit Act, 1961, ceases to be so entitled when the provisions of the Employees' State Insurance Act, 1948 become applicable to such factory or establishment. But, such a woman unless she fulfils the conditions laid down under section 50 of the Employees' State Insurance Act, 1948 is not qualified to claim any maternity benefit thereunder. Thus, she is deprived of maternity benefit under both the Acts. To remove this lacuna, it is proposed to amend the Maternity Benefit Act, 1961, so as to provide that in the event of the application of the Employees' State Insurance Act, 1948 to any factory or establishment, maternity benefit under the Maternity Benefit Act would continue to be available to women workers therein, until they become qualified to claim similar benefit under the Employees' State Insurance Act.

NEW DELHI;
The 7th December, 1965.

D. SANJIVAYYA.

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to introduce a new section 5A in the Maternity Benefit Act, 1961. This section provides for continuance of payment of maternity benefit under the Maternity Benefit Act, 1961, to women workers working in a factory or establishment to which the provisions of the Employees' State Insurance Act, 1948, have become applicable, until such time as they become entitled to similar benefit under the Employees' State Insurance Act, 1948. This imposes a financial liability on employers (including the Central Government) to pay the maternity benefit in such cases. It is, however, difficult to estimate the number of women workers in Central Government factories or establishments who will be eligible for maternity benefit under the proposed section. It is, therefore, not possible to give a precise estimate of the additional expenditure involved from the Consolidated Fund of India on this account.

II

BILL No. XIX OF 1965.

A bill further to amend the Motor Vehicles Act, 1939.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Motor Vehicles (Amendment) Act, 1965.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

4 of 1939.

Amendment of section 2.

2. In section 2 of the Motor Vehicles Act, 1939 (hereinafter referred to as the principal Act),—

(*a*) in clause (3), for the words "fixed or agreed rate or sum and from one point to another without stopping to pick up", the following words, brackets and figures shall be substituted, namely:—

"fixed or agreed rate or sum—

(*i*) on a time basis whether or not with reference to any route or distance, or

(*ii*) from one point to another, and in either case without stopping to pick up";

(*b*) in clause (*9*), for the figures "8,200", the figures "11,000" shall be substituted;

(*c*) in clause (*13*), for the figures "3,000", the figures "4,000" shall be substituted;

(*d*) in clause (*17*), for the figures "500", the figures "600" shall be substituted;

(*e*) after clause (*29*), the following clause shall be inserted, namely :—

'(*29A*) "tourist vehicle" means a contract carriage constructed or adapted and equipped and maintained in accordance with such specifications as the State Government may, by notification in the Official Gazette, specify in this behalf;'.

Amendment of section 3.

3. In section 3 of the principal Act, after sub-section (*2*), the following sub-section shall be inserted, namely :—

"(*3*) Notwithstanding anything contained in sub-section (*1*), a person who holds an effective driving licence authorising him to drive a motor car may drive any motor cab hired by him for his own use.".

Amendment of section 7.

4. In section 7 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely :—

"(*1*) Any person who is not disqualified under section 4 for driving a motor vehicle and who is not for the time being disqualified for holding or obtaining a driving licence may apply to the licensing authority having jurisdiction in the area—

(*i*) in which he ordinarily resides or carries on business, or

(*ii*) in which the school or establishment where he is receiving or has received instruction in driving a motor vehicle is situate, or

(*iii*) if the application is for a driving licence to drive as a paid employee, in which the employer resides or carries on business,

for the issue to him of a driving licence.".

Amendment of section 11.

5. In section 11 of the principal Act,—

(*a*) in sub-section (*1*), after the proviso, the following further proviso shall be added, namely :—

"Provided further that where the application is for the renewal of a driving licence, to drive as a paid employee or to drive a transport vehicle or where in any other case the original licence was issued on production of a medical certificate, the same shall be accompanied by a fresh medical certificate in Form C as set forth in the First Schedule, signed by a registered medical practitioner, and the provisions of sub-section (5) of section 7 shall apply to every such case.";

(*b*) after sub-section (*3A*), the following sub-section shall be inserted, namely :—

"(*3B*) When the authority to whom an application for the renewal of a driving licence to drive as a paid employee or to drive a transport vehicle is made, is not the authority which issued the licence sought to be renewed, it may, for the purpose of deciding whether the application for such renewal may be granted, verify the antecedents of the applicant in such manner as may be prescribed and pending the verification, such authority may grant a provisional licence for such period or periods not exceeding one year in the aggregate, subject to the condition that every such provisional licence shall cease to be effective immediately on the renewal of the licence sought to be renewed, or, as the case may be, on the refusal to renew the licence, and

(*i*) where the application for renewal has been rejected, the fee paid shall be refunded to such extent and in such manner as may be prescribed,

(*ii*) where the application for renewal has not been rejected within the said period, the licence shall be renewed.".

Amendment of section 15.

6. In section 15 of the principal Act,—

(*a*) in sub-section (*1*), for the words "a driving licence", the words "any driving licence or a driving licence to drive a particular class or description of vehicle" shall be substituted ;

(*b*) to sub-section (*2*), the following proviso shall be added, namely :—

"Provided that where the driving licence of a person authorises him to drive more than one class or description of motor vehicles and the order disqualifies him from driving

any specified class or description of motor vehicles, the licensing authority shall endorse the disqualification upon the driving licence and return the same to the holder.".

Amendment of section 16.

7. In section 16 of the principal Act, in sub-section (*1*), for the words "a transport vehicle", the words "any transport vehicle or a transport vehicle of a particular class or description" shall be substituted.

Amendment of section 18.

8. In section 18 of the principal Act, after the words "cease to be effective", the words "to such extent and" shall be inserted.

Amendment of section 21.

9. In section 21 of the principal Act, in sub-section (*2*),—

(*a*) for clause (*aa*), the following clause shall be substituted, namely:—

"(*aa*) the minimum qualifications of persons to whom licences to drive transport vehicles are issued, the time within which such qualifications are to be acquired by persons holding immediately before the commencement of the Motor Vehicles (Amendment) Act, 1965, licences to drive transport vehicles, and the duties, functions and conduct of such persons;";

(*b*) in clause (*dd*), for the words "stage carriages or contract carriages", the words "transport vehicles" shall be substituted;

(c) in clause (*i*), after the words "for the instruction of drivers of motor vehicles", the brackets and words "(including the registration of such schools or establishments and the fee to be paid in respect thereof)" shall be inserted.

Amendment of section 25.

10. In section 25 of the principal Act, to sub-section (*2*), the following proviso shall be added, namely:—

"Provided that where a motor vehicle so registered is a chassis to which a body has not been attached and the same is detained in a workshop beyond the said period of one month for being fitted with a body, the period may, on payment of such fees, if any, as may be prescribed, be extended by such further period or periods not exceeding two months in the aggregate.".

Amendment of section 27.

11. In section 27 of the principal Act, after the words "particulars of any previous registration of the vehicle", the words "or furnishes inaccurate particulars in the application for registration of such vehicle" shall be inserted.

Omission of section 29A.

12. Section 29A of the principal Act shall be omitted.

Insertion of new section 31A.

13. In the principal Act, after section 31, the following section shall be inserted, namely:—

Special provisions regarding motor vehicles subject to hire-purchase or hypothecation agreement.

"31A. (1) Where an application for registration of a motor vehicle which is held under a hire-purchase agreement is made, the registering authority shall make an entry in the certificate of registration regarding the existence of the said agreement.

(2) Where any registered owner of a motor vehicle enters into a hire-purchase agreement and reports the transfer of ownership of the motor car to the registering authority and makes an application to it to have the existence of the hire-purchase agreement entered in the certificate, the registering authority shall make an entry to that effect in the certificate of registration.

(3) Any entry made under sub-section (1) or sub-section (2), may be cancelled by the registering authority on proof of the termination of the hire-purchase agreement.

(4) No entry regarding the transfer of ownership of any motor vehicle which is held under a hire-purchase agreement shall be made in the certificate of registration except with the written consent of the person with whom the registered owner has entered into a hire-purchase agreement.

(5) Where any person with whom the registered owner has entered into a hire-purchase agreement satisfies the registering authority that he has taken possession of the vehicle owing to the default of the registered owner under the provisions of the agreement and that the registered owner refuses to deliver the certificate of registration or has absconded, such authority may, after giving the registered owner an opportunity to make such representation as he may wish to make (by sending to him a notice by registered post acknowledgement due at his address entered in the certificate of registration) and notwithstanding that the certificate of registration is not produced before it, cancel the certificate and issue a duplicate thereof to the person aforesaid.

(6) The provisions of sub-sections (1) to (5) shall, so far as may be, apply to a motor vehicle which is subject to hypothecation as they apply to any motor vehicle which is held under a hire-purchase agreement.".

Amendment of section 36.

14. In section 36 of the principal Act, in sub-section (3), for the words "in excess of that", the words "different from that" shall be substituted.

Amendment of section 38.

15. In section 38 of the principal Act, to sub-section (2), the following proviso shall be added, namely:—

'Provided that this sub-section shall, in respect of a certificate of fitness relating to a new transport vehicle registered for the first time and not plying in hilly areas, have effect as if for the words "six months", the words "one year" were substituted.

Explanation.—In this sub-section, the expression "hilly areas" means such areas as the State Government may, having regard to the elevation and topography, by notification in the Official Gazette, declare to be hilly areas.'.

Amendment of section 41.

16. In section 41 of the principal Act, in sub-section (2),—

(*a*) in clause (*e*), for the brackets and figure "(3)", the brackets and figure "(2)" shall be substituted;

(*b*) in clause (*f*), after the words "alteration of certificates of registration,", the words "for making or cancelling an endorsement in respect of an agreement of hire-purchase or hypothecation on a certificate of registration," shall be inserted.

Amendment of section 42.

17. In section 42 of the principal Act,—

(*a*) in sub-section (1), after the words "any public place,", the brackets and words "(whether or not such vehicle is actually carrying any passenger or goods)" shall be inserted;

(*b*) in sub-section (3),—

(*i*) clause (*ee*) shall be omitted;

(*ii*) after clause (*f*), the following clause shall be inserted, namely:—

"(*ff*) to any transport vehicle used by a person who manufactures or deals in motor vehicles or builds bodies for attachment to chassis, solely for such purposes and in accordance with such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf;";

(*iii*) in clause (*h*), the word "or" shall be omitted;

(*iv*) in clause (*i*), the words "except as may otherwise be prescribed," shall be omitted;

(*v*) after clause (*i*), the following clauses shall be inserted, namely:—

"(*j*) subject to such conditions as the Central Government may, by order published in the Official Gazette,

specify, to any transport vehicle purchased in one State and proceeding to a place, situated in any other State, without carrying any passenger or goods;

(*k*) to any transport vehicle (including a chassis to which a body has not been attached) which has been temporarily registered under section 25, while proceeding empty to any place for the purpose of registration of the vehicle under section 24; or

(*l*) to any transport vehicle used for such purposes (other than plying for hire or reward) as the Central Government may, by notification in the Official Gazette, specify.".

Amendment of section 49.

18. In section 43 of the principal Act, in sub-section (*1*), in clause (*i*), for the words "the fixing of fares and freights", the words and brackets "the fixing of fares and freights (including the maximum and minimum in respect thereof)" shall be substituted.

Amendment of section 44.

19. In section 44 of the principal Act, in sub-section (*2*),—

(*a*) for the words "and such other officials and non-officials, not being less than two,", the words "and, in the case of a State Transport Authority, such other officials and non-officials, not being less than two, and, in the case of a Regional Transport Authority, such other persons (whether officials or not), not being less than two," shall be substituted;

(*b*) for the words "Provided that", the following shall be substituted, namely:—

"Provided that the State Government may—

(*i*) where it considers necessary or expedient so to do, constitute Regional Transport Authority for any region so as to consist of only one member who shall be an official with or without judicial experience;

(*ii*) by rules made in this behalf, provide for the transaction of business in the absence of the Chairman or any other member and specify the nature of business which, the circumstances under which, and the manner in which, business could be so transacted:

Provided further that".

Amendment of section 45.

20. Section 45 of the principal Act shall be re-numbered as sub-section (*1*) thereof and after sub-section (*1*) as so re-numbered, the following sub-sections shall be inserted, namely:—

"(*2*) Notwithstanding anything contained in sub-section (*1*), the State Government may, by notification in the Official Gazette, direct that in the case of any vehicle or vehicles proposed to be used in two or more regions lying in different States, the application under that sub-section shall be made to the State Transport Authority of the region in which the applicant resides or has his principal place of business.

(*3*) Every applicant for the grant of a new permit under section 46 or section 54 shall deposit, by way of security, with his application an amount in such manner and at such rate not exceeding rupees five thousand per motor vehicle, as the State Government may, with reference to each class of vehicle by notification in the Official Gazette, specify.

(*4*) The security furnished under sub-section (*3*) may be forfeited in whole or in part by the transport authority if it is satisfied that the application was made for the purpose of preventing the issue of a temporary permit under section 62 and the whole or part of it as has not been forfeited shall be refunded to the applicant, as soon as may be, after the disposal of the application:

Provided that no such forfeiture shall be made unless the transport authority has given the applicant a reasonable opportunity of being heard.".

Amendment of section 46.

21. In section 46 of the principal Act, in clause (c),—

(*a*) for the word "services", wherever it occurs, the word "trips" shall be substituted;

(*b*) the following *Explanation* shall be added at the end, namely:—

'*Explanation.*—For the purposes of this section, section 48 and section 57, "trip" means a single journey from one point to another, and every return journey shall be deemed to be a separate trip;'.

Amendment of section 48.

22. In section 48 of the principal Act,—

(*a*) sub-section (*2*) shall be omitted;

(*b*) in sub-section (*3*),—

(*i*) for clause (*i*), the following clauses shall be substituted, namely:—

"(*i*) that the vehicle or vehicles shall be used only in a specified area, or on a specified route or routes;

(*ia*) that the service or any specified part thereof shall be commenced with effect from a specified date;";

(*ii*) in clause (*ii*), for the words "services to be maintained", the words "trips to be provided" shall be substituted;

(*iii*) to clause (*xxi*), the following proviso shall be added, namely:—

"Provided that the conditions specified in pursuance of clause (*i*) shall not be varied so as to alter the distance covered by the original route by more than 24 kilometres, and any variation within such limits shall be made only after the Regional Transport Authority is satisfied that such variation will serve the public convenience and that it is not expedient to grant a separate permit in respect of the original route as so varied or any part thereof;".

Amendment of section 51.

23. In section 51 of the principal Act, in sub-section (*2*), after clause (*ii*), the following clause shall be inserted, namely:—

"(*iia*) the maximum number of passengers and the maximum weight of luggage that may be carried on any specified vehicle or on any vehicle of a specified type, either generally or on specified occasions or at specified times and seasons;".

Amendment of section 57.

24. In section 57 of the principal Act, in sub-section (*8*), for the words "number of services above the specified maximum", the words "number of trips above the specified maximum or by altering the route covered by it" shall be substituted.

Amendment of section 58.

25. In section 58 of the principal Act, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) Where a permit has been renewed under this section after the expiry of the period thereof, such renewal shall have effect from the date of such expiry irrespective of whether or not a temporary permit has been granted under clause (*d*) of section 62, and where a temporary permit has been granted, the fee paid in respect of such temporary permit shall be refunded.".

Amendment of section 59

26. In section 59 of the principal Act,—

(*a*) in sub-section (*2*), for the words "replace by another vehicle of the same nature and capacity any vehicle covered by the permit", the words "replace any vehicle covered by the permit by any other vehicle of the same nature" shall be substituted;

(*b*) in sub-section (*3*),—

(*i*) in clause (*a*), for the words "permit relates", the words and figures "permit relates carry valid certificates of fitness issued under section 38 and" shall be substituted;

(*ii*) in clause (*c*), the words "maximum or minimum" shall be omitted;

(*iii*) in clause (*d*), for the word and figures "section 72", the words and figures "section 5 or section 72" shall be substituted.

Amendment of section 60.

27. In section 60 of the principal Act,—

(*a*) after sub-section (*1A*), the following sub-section shall be inserted, namely:—

"(*1B*) The transport authority may exercise the powers conferred on it under sub-sections (*1*) and (*1A*) in relation to a permit granted by any authority or person to whom power in this behalf has been delegated under sub-section (*5*) of section 44 as if the said permit was a permit granted by the transport authority.";

(*b*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) The powers exerciseable under sub-section (*1*) or sub-section (*1A*) (other than the power to cancel a permit) by the transport authority which granted the permit may be exercised by any authority or person to whom such powers have been delegated under sub-section (*5*) of section 44:

Provided that—

(*i*) no such authority or person shall pass an order suspending the permit for a period exceeding one month or reducing the period thereof by more than one month; and

(*ii*) any such order shall be placed within the said period of one month before the transport authority who may vacate the order or extend the said period of one month where it has not expired or cancel the permit or take action under sub-section (*3*), as it may deem fit.";

(*c*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) The powers exerciseable by the transport authority under sub-section (*3*) may, where an appeal has been preferred under section 64, be exercised also by the appellate authority.".

Amendment of section 62.

28. Section 62 of the principal Act shall be re-numbered as sub-section (*1*) thereof, and after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) Notwithstanding anything contained in sub-section (*1*), a temporary permit may be granted thereunder in respect of any route or area where—

(*i*) no permit could be issued under section 48 or section 51 or section 54 in respect of that route or area by reason of an order of a court or other competent authority restraining the issue of the same, for a period not exceeding the period for which the issue of the permit has been so restrained; or

(*ii*) as a result of the suspension by a court or other competent authority of the permit of any vehicle in respect of that route or area, there is no transport vehicle of the same class with a valid permit in respect of that route or area, or there is no adequate number of such vehicles in respect of that route or area, for a period not exceeding the period of such suspension:

Provided that the number of transport vehicles in respect of which the temporary permit is so granted shall not exceed the number of vehicles in respect of which the issue of a permit has been restrained or as the case may be, the permit has been suspended.".

Amendment of section 63.

29. In section 63 of the principal Act,—

(*a*) to sub-section (*1*), the following further proviso shall be added, namely:—

"Provided further that where both the starting point and the terminal point of a route are situate within the same State, but part of such route lies in any other State and the length of such part does not exceed sixteen kilometres, the permit shall be valid in the other State in respect of that part of the route which is in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State.";

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Notwithstanding anything contained in sub-section (*1*), a permit granted or countersigned by a State Transport Authority shall be valid in the whole State or

in such regions within the State as may be specified in the permit.";

(c) in the proviso to sub-section (3), after the words "arrived at between the States", the following shall be inserted, namely :—

"after complying with the requirements of sub-section (3A), or for the grant of counter-signatures of permits in pursuance of any direction issued by the Commission under clause (c) of sub-section (2) of section 63A";

(d) after sub-section (3), the following sub-sections shall be inserted, namely:—

"(3A) Every proposal to enter into an agreement between the States referred to in the proviso to sub-section (3) and every proposal in such agreement to fix the number of permits which is proposed to be granted or counter-signed in respect of each route or area, shall be published by each of the State Governments concerned in the Official Gazette together with a notice of the date before which representations in connection therewith may be submitted, and the date, not being less than thirty days from the date of such publication, on which, and the authority by which, and the time and place at which, the proposal and any representations received in connection therewith will be considered:

Provided that no person, association or authority, other than those mentioned hereunder, shall have a right to make such representation, namely :—

(i) any person already providing passenger or goods transport facilities by any means in the proposed area or along or near the proposed route;

(ii) any association representing persons interested in the provision of road transport facilities recognised in this behalf by the State Government;

(iii) any local authority or police authority within whose jurisdiction any part of the proposed area or route lies.

(3B) Every agreement arrived at between the States shall, in so far as it relates to the grant of counter-signature of permits, be published in the Official Gazette by each of

the States concerned and the State Transport Authority of the State and the Regional Transport Authority concerned shall give effect to it.";

(*e*) after sub-section (*6*), the following sub-sections shall be inserted, namely :—

"(7) Notwithstanding anything contained in sub-section (*1*) but subject to any rules that may be made under this Act, any State Transport Authority may, for the purpose of promoting tourism, grant in respect of tourist vehicles such number of permits valid for the whole or any part of India as the Central Government may, in respect of that State, specify in this behalf, and the provisions of sections 49, 50, 51, 57, 58, 59, 59A, 60, 61 and 64 shall, as far as may be, apply in relation to such permits.

(*8*) Every applicant for a permit under sub-section (7) shall deposit, by way of security, in such manner and such amount, not exceeding rupees five thousand per motor vehicle, as the Central Government may with reference to each class of vehicle, by notification in the Official Gazette, specify, and such security shall be refunded wholly or in part to the applicant if his application for permit has not been granted, or, as the case may be, granted for a lesser number of vehicles than what was applied for.

(*9*) Any amount deposited by way of security under sub-section (*8*) may, at any time, be forfeited in whole or in part by the State Transport Authority if it is satisfied after making such inquiry as it thinks fit that—

(*a*) the permit was obtained by fraud or misrepresentation, or

(*b*) the holder of the permit has failed without reasonable cause to use the vehicle or vehicles for the purpose for which the permit was granted, or

(*c*) the holder of the permit has committed a breach of any condition of the permit, or

(*d*) the holder of the permit has used or caused it to be used in any manner not authorised by the permit:

Provided that no such forfeiture shall be made unless the State Transport Authority has given the permit-holder a reasonable opportunity of being heard.

(*10*) The following shall be conditions of every permit granted under sub-section (*7*), namely :—

(*i*) every motor vehicle in respect of which such permit is granted shall conform to such description, requirement regarding the seating capacity, standards of comforts, amenities and other matters, as the Central Government may specify in this behalf;

(*ii*) every such motor vehicle shall be driven by a person having such qualifications and satisfying such conditions as may be specified by the Central Government; and

(*iii*) such other conditions as may be prescribed by the Central Government.".

Amendment of section 63A.

30. In section 63A of the principal Act, agter sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) If any direction issued by the State Government under section 43 is repugnant to any direction made by the Commission under clause (*c*) of sub-section (*2*), then, the direction of the Commission, whether issued before or after the direction issued by the State Government, shall prevail and the direction made by the State Government shall, to the extent of the repugnancy, be of no effect.".

Insertion of new section 63BB.

31. After section 63B of the principal Act, the following section shall be inserted, namely:—

Appeal against decision, direction or order under section 63A.

"63BB. (*1*) Any person or authority (including Government) aggrieved by the decision, direction or order of the Commission under clause (*b*) or clause (c) or clause (*d*) or clause (*e*) of sub-section (*2*) of section 63A may, within thirty days from the date of the communication to him or it, of such decision, direction or order, as the case may be, appeal to the authority specified by the Central Government under clause (*h*) of section 63C, which shall decide the appeal after giving the person or the authority an opportunity of being heard and pass such order thereon as it may deem fit and such order shall be final:

Provided that the authority aforesaid may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) Every appeal under sub-section (1) shall be preferred in such manner and accompanied by such fee as may be prescribed by the Central Government.".

Amendment of section 63C.

32. In section 63C of the principal Act, for clause (*h*), the following clause shall be substituted, namely:—

"(*h*) the authority to which, the manner in which and the fees on payment of which, an appeal against any decision, direction or order of the Commission may be preferred;".

Amendment of section 64

33. Section 64 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(*a*) in sub-section (1) as so re-numbered,—

(*i*) after clause (*h*), the following clause shall be inserted, namely:—

"(*hh*) aggrieved by an order of forfeiture passed under sub-section (4) of section 45 or under sub-section (9) of section 63, or";

(*ii*) for the words "the prescribed authority who shall give such person and the original authority an opportunity of being heard", the words, brackets and figure "the State Transport Appellate Tribunal constituted under sub-section (2), who shall, after giving such person and the original authority an opportunity of being heard, give a decision thereon which shall be final" shall be substituted;

(*b*) after sub-section (1) as so re-numbered, the following sub-sections and *Explanation* shall be inserted, namely:—

"(2) The State Government shall constitute for the State a State Transport Appellate Tribunal which shall consist of a whole-time judicial officer not below the rank of a District Judge:

Provided that in relation to a Union territory the Tribunal may consist of the Administrator of that territory or any officer who has judicial experience.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), every appeal pending at the commencement of the Motor Vehicles (Amendment) Act, 1965, shall be proceeded with and disposed of as if that Act had not been passed.

Explanation.—For the removal of doubts, it is hereby declared that when any order is made by the State Transport Authority or the Regional Transport Authority in pursuance of a direction issued by the Commission under

clause (*c*) of sub-section (*2*) of section 63A and any person feels aggrieved by such order on the ground that it is not in consonance with such direction, he may appeal under sub-section (*1*) to the State Transport Appellate Tribunal against such order but not against the direction so issued.".

Amendment of section 64A.

34. In section 64A of the principal Act,—

(*a*) for the words "State Transport Authority", wherever they occur, the words "State Transport Appellate Tribunal" shall be substituted;

(*b*) for the words "Regional Transport Authority", wherever they occur, the words "State Transport Authority or Regional Transport Authority" shall be substituted;

(c) after the words "as it deems fit", the words "and every such order shall be final" shall be inserted.

Amendment of section 65.

35. In section 65 of the principal Act, in sub-section (*1*),—

(*a*) in clause (*b*), for the words "nine hours", the words "eight hours" shall be substituted;

(*b*) in clause (*c*), for the words "fifty-four hours", the words "forty-eight hours" shall be substituted.

Insertion of new section 66A.

36. After section 66 of the principal Act, the following section shall be inserted, namely :—

Agent or canvasser to obtain licence.

"66A. (*1*) No person shall engage himself—

(*i*) as an agent or canvasser, in the sale of tickets for travel by public service vehicles or in otherwise soliciting custom for such vehicles, or

(*ii*) as an agent in the business of collecting, forwarding or distributing goods carried by public carriers,

unless he has obtained a licence from such authority and subject to such conditions as may be prescribed by the State Government.

(2) The conditions referred to in sub-section (*1*) may include all or any of the following matters, namely:—

(*a*) the period for which a licence may be granted or renewed;

(*b*) the fee payable for the issue or renewal of the licence;

(c) the deposit of security by the agent or canvasser and the circumstances under which it may be forfeited;

(*d*) the provision by the agent of insurance of goods in transit;

(*e*) the authority by which and the circumstances under which the licence may be suspended or revoked;

(*f*) such other conditions as may be prescribed by the State Government.".

Amendment of section 68.

37. In section 68 of the principal Act, in sub-section (2),—

(*a*) after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) the conduct of business by any such authority in the absence of any member (including the Chairman) thereof and the nature of business which, the circumstances under which and the manner in which, business could be so conducted;";

(*b*) after clause (*c*), the following clause shall be inserted, namely:—

"(*cc*) the manner in which and the time within which every application for a stage carriage permit or a public carrier's permit shall be published, as required by sub-section (3) of section 57, and the circumstances under which and the fees on payment of which copies of such applications may be granted;";

(*c*) in clause (*ww*), for the words "forwarding and distributing of", the words "or forwarding and distributing" shall be substituted.

Amendment of section 68A.

38. In section 68A of the principal Act, in clause (*b*),—

(*a*) sub-clause (*iii*) shall be omitted;

(*b*) in sub-clause (*iv*), for the words "the State Government", the words "the Central Government or one or more State Governments, or by the Central Government and one or more State Governments" shall be substituted.

Amendment of section 68D.

39. In section 68D of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) On the publication of any scheme in the Official Gazette under section 68C,—

(*i*) any person already providing transport facilities by any means along or near the area or route proposed to be covered by the scheme;

(*ii*) any association representing persons interested in the provision of road transport facilities recognised in this behalf by the State Government ; and

(*iii*) any local authority or police authority within whose jurisdiction any part of the area or route proposed to be covered by the scheme lies,

may, within thirty days from the date of such publication, file objections thereto before the State Government.".

Amendment of section 68E.

40. Section 68E of the principal Act shall be re-numbered as sub-section (*1*) thereof and—

(*i*) in sub-section (*1*) as so re-numbered, for the words "proposed to be modified as if the modification proposed were a separate scheme", the following shall be substituted, namely:—

"proposed to be cancelled or modified as if the proposal were a separate scheme:

Provided that the State Transport Undertaking may, with the previous approval of the State Government, modify without following the procedure laid down in section 68C and section 68D, any such scheme relating to any route or area in respect of which the road transport services are run and operated by the State Transport Undertaking to the complete exclusion of other persons in respect of the following matters, namely:—

(*a*) increase in the number of vehicles or the number of trips;

(*b*) change in the type of vehicles without reducing the seating capacity;

(*c*) extension of the route or area, without reducing the frequency of the service; or

(*d*) alteration of the time-table without reducing the frequency of the service.";

(*ii*) after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) Notwithstanding anything contained in sub-section (*1*), the State Government may, at any time, if it considers necessary in the public interest so to do, modify any scheme published under sub-section (*3*) of section 68D, after giving,—

(*i*) the State Transport Undertaking, and

(*ii*) any other person who, in the opinion of the State Government, is likely to be affected by the proposed modification,

an opportunity of being heard in respect of the proposed modification.".

Amendment of section 68F.

41. In section 68F of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words and figures "in the manner specified in Chapter IV", the words "in such manner as may be prescribed by the State Government in this behalf" shall be substituted;

(*ii*) for the words "Regional Transport Authority", the words "State Transport Authority in any case where the said area or route lies in more than one region and the Regional Transport Authority in any other case" shall be substituted;

(*b*) in sub-section (*2*),—

(*i*) for the words "the Regional Transport Authority", the words "the State Transport Authority or as the case may be, the Regional Transport Authority concerned" shall be substituted;

(*ii*) in clause (*a*), for the words "the renewal of any other permit", the words "the grant or renewal of any other permit or reject any such application as may be pending" shall be substituted;

(*c*) in sub-section (*3*), for the words "the Regional Transport Authority", the words "the State Transport Authority or any Regional Transport Authority" shall be substituted;

Insertion of new section 68FF.

42. After section 68F of the principal Act, the following section shall be inserted, namely:—

Restriction on grant of permits in respect of a notified area or notified route.

"68FF. Where a scheme has been published under sub-section (*3*) of section 68D in respect of any notified area or notified route, the State Transport Authority or the Regional Transport Authority, as the case may be, shall not grant any permit except in accordance with the provisions of the scheme:

Provided that where no application for a permit has been made by the State Transport Undertaking in respect of any notified area or notified route in pursuance of an approved scheme, the State Transport Authority or the Regional Transport Authority, as the case may be, may grant temporary permits to any person in respect of such notified area or notified route subject to the condition that such permit shall cease to be effective on the issue of a permit to the State Transport Undertaking in respect of that area or route.".

Amendment of section 68G.

43. In section 68G of the principal Act, in sub-section (2), for the words "the Regional Transport Authority", the words "the State Transport Authority or the Regional Transport Authority, as the case may be," shall be substituted.

Insertion of new section 68HH.

44. After section 68H of the principal Act, the following section shall be inserted, namely:—

Disposal of articles found in vehicles.

"68HH. Where any article found in any transport vehicle operated by the State Transport Undertaking is not claimed by its owner within the prescribed period, the State Transport Undertaking may sell the article in the prescribed manner and the sale proceeds thereof, after deducting the costs incidental to sale, shall be paid to the owner on demand.".

Amendment of section 68I.

45. In section 68I of the principal Act, in sub-section (2), after clause (c), the following clauses shall be inserted, namely:—

"(cc) the manner in which application under sub-section (*1*) of section 68F may be made;

(ccc) the period within which the owner may claim an article found left in any transport vehicle under section 68HH and the manner of sale of such article;".

Insertion of new section 68J.

46. In Chapter IVA of the principal Act, after section 68I, the following section shall be inserted, namely:—

Certain powers of State Government exerciseable by the Central Government.

"68J. The powers conferred on the State Government under this Chapter shall, in relation to a corporation or company owned or controlled by the Central Government or by the Central Government and one or more State Governments, be exerciseable only by the Central Government in relation to an inter-State route or area.".

47. After section 69 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 69A.

"69A. Every motor vehicle shall be so constructed as to have right hand steering control unless it is equipped with a mechanical or electrical signalling device of a prescribed nature.". Vehicles to have right hand control.

48. Section 79 of the principal Act shall be re-numbered as sub-section (*1*) thereof and— Amendment of section 79.

(*i*) in sub-section (*1*) as so re-numbered, after the words "driver of a motor vehicle", the words "with a right hand steering control" shall be inserted; and

(*ii*) after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) In the case of a motor vehicle with a left hand steering control, the signal of an intention to turn to the right or left or to stop shall be given by a mechanical or an electrical device of a prescribed nature affixed to the vehicle:

Provided that the Central Government may, having regard to the width and the condition of the roads in any area or route, by notification in the Official Gazette, exempt, subject to such conditions as may be specified therein, any such motor vehicle or class of such motor vehicles from the operation of this sub-section for the purpose of plying in that area or route.".

49. To section 80 of the principal Act, the following proviso shall be added, namely:— Amendment of section 80.

"Provided that the Central Government may, having regard to the width and condition of the roads in any area or route, by notification in the Official Gazette, exempt, subject to such conditions as may be specified therein, any such motor vehicle or class of such motor vehicles from the operation of this section for the purpose of plying in that area or route.".

50. In section 89 of the principal Act, after the words "When any person is injured", the words "or any property of a third party is damaged," shall be inserted. Amendment of section 89.

51. In section 92 of the principal Act, in sub-section (*1A*), the words "contiguous to it" shall be omitted. Amendment of section 92.

Amendment of section 93.

52. In section 93 of the principal Act,—

(*i*) after clause (*b*), the following clause shall be inserted, namely:—

'(*bb*) "property" includes roads, bridges, culverts, causeways, trees, posts and mile-stones;';

(*ii*) after clause (*c*), the following clause shall be inserted, namely:—

'(*d*) "third party" includes the Government.'.

Amendment of section 94.

53. In section 94 of the principal Act, in sub-section (*3*), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

"*Explanation.*—For the purposes of this sub-section, appropriate Government means the Central Government or the State Government, as the case may be, and—

(*i*) in relation to any corporation or company owned by the Central Government or any State Government, means the Central Government or that State Government;

(*ii*) in relation to any corporation or company owned by the Central Government and one or more State Governments, means the Central Government;

(*iii*) in relation to any other State Transport Undertaking or any local authority, means that Government which has control over that Undertaking or authority.".

Amendment of section 95.

54. In section 95 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for clause (*b*), the following clause shall be substituted, namely:—

"(b) **insures the person or classes of persons specified in the policy to the extent specified in sub-section (2)—**

(i) against any liability which may be incurred by him in respect of the death of or bodily injury to any person or damage to any property of a third party caused by or arising out of the use of the vehicle in a public place;

(ii) against the death of or bodily injury to any passenger of a public service vehicle caused by or arising out of the use of the vehicle in a public place, where there is no contributory negligence on the part of such passenger;";

(*ii*) the following *Explanation* shall be added at the end, namely:—

"*Explanation.*— **For the removal of doubts, it is hereby declared that the death of or bodily injury to**

any person or damage to any property of a third party shall be deemed to have been caused by or to have arisen out of, the use of a vehicle in a public place notwithstanding that the person who is dead or injured or the property which is damaged was not in a public place at the time of the accident, if the act or omission which led to the accident occurred in a public place.";

(*b*) in sub-section (*2*),—

(i) in clause (a), for the word "twenty", the word "fifty" shall be substituted;

(*ii*) for clauses (*b*) and (*c*), the following clauses shall be substituted, namely:—

"(b) where the vehicle is a vehicle in which passengers are carried for hire or reward or by reason of or in pursuance of a contract of employment,—

(i) in respect of persons other than passengers carried for hire or reward, a limit of fifty thousand rupees in all;

(ii) in respect of passengers,—

(*1*) a limit of fifty thousand rupees in all where the vehicle is registered to carry not more than thirty passengers;

(*2*) a limit of seventy-five thousand rupees in all where the vehicle is registered to carry more than thirty but not more than sixty passengers;

(*3*) a limit of one lakh rupees in all where the vehicle is registered to carry more than sixty passengers; and

(*4*) subject to the limits aforesaid, ten thousand rupees for each individual passenger where the vehicle is a motor cab, and five thousand rupees for each individual passenger in any other case;

(c) save as provided in clause (*d*), where the vehicle is a vehicle of any other class, the amount of liability incurred;

(*d*) irrespective of the class of the vehicle, a limit of rupees two thousand in all in respect of damage to any property of a third party.".

Insertion of new section 95AA.

55. After section 95A of the principal Act, the following section shall be inserted, namely:—

Security to be deposited by insurers.

"95AA. (*1*) In addition to the deposits required to be made under section 7 of the Insurance Act, 1938, every insurer who is competent to issue a policy of insurance in accordance with this Chapter, shall deposit and keep deposited with the Reserve Bank of India or the State Bank of India, a sum of rupees thirty thousand as security for the due discharge of any liability covered by a policy of insurance issued in accordance with the provisions of this Chapter. 4 of 1938.

(*2*) Any sum deposited under sub-section (*1*) shall be deemed to be part of the assets of the insurer but shall not be susceptible of any assignment or charge nor shall it be liable to any attachment in execution of any decree except for meeting the claims arising in respect of a policy of insurance issued after complying with the requirements of this Chapter.

(*3*) Where, on an application made to it in this behalf, any Court or Claims Tribunal, which has made an award for compensation under this Act, is satisfied—

(*i*) that the applicant has exhausted all other remedies open to him to recover his dues from the insurer, or

(*ii*) that the award has been made after the insurer has gone into liquidation,

it may direct the payment of such compensation from out of the sum deposited under sub-section (*1*):

Provided that in the case of the insolvency of the insurer—

(*a*) such payment shall not be made until all claims under this Act against the insurer have been settled; and

(*b*) payment so made shall be proportionate to the amount of compensation allowed in each case.".

Insertion of new section 103A.

56. After section 103 of the principal Act, the following section shall be inserted, namely:—

Transfer of certificate of insurance.

"103A. (*1*) Where a person in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter proposes to transfer to another person the ownership of the motor vehicle in respect of which such insurance was taken together with the policy of insurance relating thereto, he may apply in the prescribed form to the insurer for the transfer of the certificate of insurance and the policy described in the certificate in favour of the person to whom the motor vehicle is proposed to be transferred, and if within seven days of the receipt of such application by the insurer, the insurer has not intimated the insured and such other person his refusal to transfer the certificate and the policy to the other person, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer.

(*2*) The insurer to whom any application has been made under sub-section (*1*) may refuse to transfer to the other person the certificate of insurance and the policy described in that certificate if he considers it necessary so to do, having regard to—

(*a*) the previous conduct of the other person,—

(*i*) as a driver of motor vehicles; or

(*ii*) as a holder of the policy of insurance in respect of any motor vehicle; or

(*b*) any conditions which may have been imposed in relation to any such policy held by the applicant; or

(*c*) the rejection of any proposal made by such other person for the issue of a policy of insurance in respect of any motor vehicle owned or possessed by him.".

Amendment of section 110.

57. In section 110 of the principal Act, in sub-section (*1*), for the words "motor vehicles.", the following words shall be substituted, namely:—

"motor vehicles, or damages to any property of a third party so arising, or both:

Provided that where such claim includes a claim for compensation in respect of damage to property exceeding rupees two thousand, the claimant may, at his option, refer the claim to a civil court for adjudication, and where a reference is so made, the Claims Tribunal shall have no jurisdiction to entertain any question relating to such claim.".

Amendment of section 110A.

58. In section 110A of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) in clause (*b*) for the words "by the legal representatives", the words "by all or any of the legal representatives" shall be substituted;

(*ii*) in clause (*c*), for the words "or the legal representatives", the words "or all or any of the legal representatives" shall be substituted;

(*iii*) the following proviso shall be inserted at the end, namely:—

"Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.";

(*b*) in sub-section (*3*), for the words "sixty days", wherever they occur, the words "six months" shall be substituted.

Insertion of new section 110AA.

59. After section 110A of the principal Act, the following section shall be inserted, namely:—

Option regarding claims for compensation in certain cases.

"110AA. Notwithstanding anything contained in the Workmen's Compensation Act, 1923, where the death of or bodily injury to any person gives rise to a claim for compensation under this Act and also under the Workmen's Compensation Act, 1923, the person entitled to compensation may claim such compensation under either of those Acts but not under both.". 8 of 1923.

Amendment of section 110B.

60. In section 110B of the principal Act, after the words "the insurer.", the words "or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be." shall be inserted.

Amendment of section 110C.

61. In section 110C of the principal Act, after sub-section (*2*), the following sub-sections shall be inserted, namely:—

"(*2A*) Without prejudice to the provisions of any other law for the time being in force, where a person to whom a summons is issued either to attend or to give evidence or to produce documents or material objects at a certain place and time, inten-

tionally omits to attend or to give evidence or to produce the documents or material objects at the place or time, the Claims Tribunal may impose on him all or any of the following penalties, namely:—

(*i*) a fine not exceeding two thousand and five hundred rupees;

(*ii*) where such person is the driver of the vehicle involved in the accident, suspension of his driving licence;

(*iii*) where such person is the owner of such vehicle, suspension of the permit or registration certificate in relation to that vehicle.

(*2B*) Where in the course of any inquiry, the Claims Tribunal is satisfied that—

(*i*) there is collusion between the person making the claim and the person against whom the claim is made, or

(*ii*) the person against whom the claim is made has failed to contest the claim,

it may, for reasons to be recorded in writing, direct that the insurer who may be liable in respect of such claim, shall be impleaded as a party to the proceeding and the insurer so impleaded shall thereupon have the right to contest the claim on all or any of the grounds that are available to the person against whom the claim has been made.".

Insertion of new sections 110 CC and 110CCC.

62. After section 110C of the principal Act, the following sections shall be inserted, namely:—

Award of interest where any claim is allowed.

"110CC. Where any Court or Claims Tribunal allows a claim for compensation made under this Chapter, such Court or Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf.

Award of compensatory costs in certain cases.

110CCC. (*1*) Any Court or Claims Tribunal adjudicating upon any claim for compensation under this Act, may in any case where it is satisfied for reasons to be recorded in writing that—

(*i*) the policy of insurance is void on the ground that it was obtained by non-disclosure of a material fact or by representation of fact which was false in any material particular, or

(*ii*) any party or insurer has put forward a false or vexatious claim or defence,

such Court or Tribunal may make an order for the payment, by the party who is guilty of non-disclosure or mis-representation or by whom such claim or defence has been put forward, of special costs by way of compensation to the insurer or, as the case may be, to the party against whom such claim or defence has been put forward.

(2) No Court or Claims Tribunal shall pass an order for special costs under sub-section (1) for any amount exceeding rupees one thousand.

(3) No person or insurer against whom an order has been made under this section shall, by reason thereof, be exempted from any criminal liability in respect of such non-disclosure, mis-representation, claim or defence as is referred to in sub-section (1).

(4) Any amount awarded by way of compensation under this section in respect of any non-disclosure, mis-representation, claim or defence, shall be taken into account in any subsequent suit for damages for compensation in respect of such non-disclosure, mis-representation, claim or defence.".

Amendment of section 110E.

63. In section 110E of the principal Act, for the words "an insurer", the words "any person" shall be substituted.

Amendment of section 111A.

64. In section 111A of the principal Act, in clause (*d*), after the words "the manner in which", the words and brackets "and the fees (if any) on payment of which," shall be inserted.

Insertion of new section 113A.

65. After section 113 of the principal Act, the following section shall be inserted, namely:—

Allowing unauthorised persons to drive vehicles.

"113A. Whoever, being the owner or person in charge of a motor vehicle, causes or permits, any person who does not satisfy the provisions of section 3 or section 4, to drive the vehicle, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.".

Amendment of section 115.

66. In section 115 of the principal Act,—

(*i*) in sub-section (*1*), for the words "one hundred rupees", the following shall be substituted namely:—

"two hundred rupees, or, if having been previously convicted of an offence under this sub-section is again convicted of an offence under this sub-section, with fine which may extend to five hundred rupees";

(*ii*) in sub-section (*2*), for the words "two hundred rupees", the following shall be substituted, namely:—

"three hundred rupees, or, if having been previously convicted of an offence under this sub-section is again convicted of an offence under this sub-section, with fine which may extend to five hundred rupees".

Amendment of section 123.

67. In section 123 of the principal Act, in sub-section (*1*), after the words "for which the vehicle may be used", the words "or to the maximum number of passengers and maximum weight of luggage that may be carried on the vehicle" shall be inserted.

Insertion of new section 123A.

68. After section 123 of the principal Act, the following section shall be inserted, namely:—

Punishment of agents and canvassers without proper authority.

"123A. Whoever engages himself as an agent or canvasser in contravention of the provisions of section 66A or any rules made thereunder shall be punishable for a first offence with fine which may extend to one thousand rupees and for a subsequent offence, if committed within three years of the commission of a previous similar offence, with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both:

Provided that no court shall, except for reasons to be stated in writing, impose a fine of less than five hundred rupees for any such subsequent offence.".

Amendment of section 124.

69. In section 124 of the principal Act, for the words and figures "section 72 or of the conditions of any permit issued thereunder, or in contravention of any prohibition or restriction imposed under section 74 shall be punishable", the words and figures "section 72 or of the conditions prescribed under that section, or in contravention of any prohibition or restriction imposed under section 72 or section 74, shall be punishable" shall be substituted.

Insertion of new section 127AA.

70. After section 127A of the principal Act, the following section shall be inserted, namely:—

Minimum penalty for second or subsequent offence.

"127AA. Save as otherwise provided in this Act, where a person, who has committed an offence punishable with fine (whether with or without imprisonment), under any provision of this Act, is again convicted of an offence involving the contravention of the same provision, the fine imposed, if any, for the second or subsequent offence committed within a period of three years from the date of the commission of the previous offence shall not be less than one-fourth of the maximum fine prescribed for the first offence.".

Amendment of section 129A.

71. To section 129A of the principal Act, the following proviso shall be added, namely:—

"Provided that where any such officer or person has reason to believe that a motor vehicle has been or is being used without the permit required by sub-section (*1*) of section 42, he may, instead of seizing the vehicle, seize the certificate of registration of the vehicle and issue an acknowledgment in respect thereof.".

Amendment of section 130.

72. In section 130 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) The court taking cognizance of an offence under this Act,—

(*i*) may, if the offence is an offence punishable with imprisonment under this Act, and

(*ii*) shall, in any other case, state upon the summons to be served on the accused person that he—

(*a*) may appear by pleader and not in person, or

(*b*) may, by a specified date prior to the hearing of the charge, plead guilty to the charge by registered letter and remit to the court such sum (not exceeding the maximum fine that may be imposed for the offence) as the court may specify:

Provided that nothing in this sub-section shall apply to any offence specified in Part A of the Fifth Schedule.".

Insertion of new section 131A.

73. After section 131 of the principal Act, the following section shall be inserted, namely:—

Courts to send intimations about conviction.

"131A. Every court by which any person holding a driving licence is convicted of an offence under this Act or of an offence in the commission of which a motor vehicle was used, shall send intimation to—

(*a*) the licensing authority which issued the driving licence, and

(*b*) the licensing authority by whom the licence was last renewed,

and every such intimation shall state the name and address of the holder of the licence, the licence number, the date of issue and renewal of the same, the nature of the offence, the punishment awarded for the same and such other particulars as may be prescribed.".

Insertion of new section 132A.

74. In Chapter X of the principal Act, before section 133, the following section shall be inserted, namely:—

Power to levy fee.

"132A. Any rule which the Central Government or the State Government is empowered to make under this Act may, notwithstanding the absence of any express provision to that effect, provide for the levy of such fees in respect of applications, amendment of documents, issue of certificates, licences, permits, tests, endorsements, badges, plates, counter-signatures, authorisation, supply of statistics or copies of documents or orders and for any other purpose or matter involving the rendering of any service by the officers or authorities under this Act or any rule made thereunder as may be considered necessary:

Provided that the Government may, if it considers necessary so to do, in the public interest, by general or special order, exempt any class of persons from the payment of any such fee either in part or in full.".

Amendment of section 133A.

75. In section 133A of the principal Act, after sub-section (*3*), the following sub-sections shall be inserted, namely:—

"(*4*) In addition to the powers that may be conferred on any officer of the Motor Vehicles Department under

sub-section (3), such officer as may be empowered by the State Government in this behalf shall also have the power to,—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and the rules made thereunder are being observed;

(b) with such assistance, if any, as he thinks fit, enter, inspect and search any premises which is in the occupation of a person who, he has reason to believe, has committed an offence under this Act or in which a motor vehicle in respect of which such offence has been committed is kept:

Provided that—

(i) any such search without a warrant shall be made only by an officer of the rank of a gazetted officer;

(ii) where the offence is punishable with fine only the search shall not be made after sunset and before sunrise;

(iii) where the search is made without a warrant, the gazetted officer concerned shall record in writing the grounds for not obtaining a warrant and report to his immediate superior that such search has been made;

(c) examine any person and require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purpose of this Act;

(d) seize or take copies of any registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed;

(e) to launch prosecutions in respect of any offence under this Act and to take a bond for ensuring the attendance of the offender before any court;

(f) exercise such other powers as may be prescribed:

Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself.

5 of 1898.

(5) The provisions of the Code of Criminal Procedure, 1898 shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure under the authority of any warrant issued under section 98 of that Code.".

Amendment of section 134.

76. In section 134 of the principal Act, after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Notwithstanding anything contained in sub-section (*1*), if an application made by a person for the renewal of permit has been rejected by the original authority and such person has preferred an appeal or made an application for revision under this Act against such rejection, the appellate authority or, as the case may be, the revisional authority may by order direct that the permit shall, notwithstanding the expiration of the term specified therein, continue to be valid until the appeal or application for revision is disposed of.".

Insertion of new section 135.

77. After section 134 of the principal Act, the following section shall be inserted, namely:—

Repeal and savings.

"135. (*1*) The enactments specified in the Twelfth Schedule are hereby repealed to the extent mentioned therein.

(*2*) Notwithstanding the repeal of any enactment by this section,—

(*a*) any notification, rule, regulation, order or notice issued, or any appointment or declaration made, or any licence, permission or exemption granted, or any confiscation made, or any penalty or fine imposed, or any forfeiture, cancellation or discharge of any bond ordered, or any other thing done, or any other action taken under the repealed enactment, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provision of this Act;

(*b*) any document referring to any enactment hereby repealed, or to any provision thereof, shall be construed as referring to this Act or to the corresponding provision of this Act.

(*3*) Any penalty payable under any repealed enactment may be recovered in the manner provided by or under this Act but without prejudice to any action already taken for the recovery of such penalty under the repealed enactment.

(4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeals.". 10 of 1897.

Amendment of First Schedule.

78. In the First Schedule to the principal Act,—

(*a*) in Form A, in Part III,

(*i*) in paragraph (*b*), after the words "with each eye", the following brackets and words shall be inserted, namely:—

"(or if you have held a licence to drive a motor vehicle for a period of not less than five years and if you have lost sight of one eye after the said period of five years and if the application is for driving a light motor vehicle, other than a transport vehicle, fitted with an outside mirror on the steering wheel side, with one eye)";

(*ii*) in paragraph (*f*), after the words "unable to hear", the brackets and words "(and if the application is for driving a light motor vehicle, with or without hearing aid)" shall be inserted;

(*b*) in Form AA, for the words "I hereby", the following words "I, Shri/Shrimati/Kumari....., hereby" shall be substituted;

(*c*) in Form B,—

(*i*) below the heading "*Form of application for the renewal of driving licence*", the figure "I" shall be inserted;

(*ii*) for the words "I hereby apply", the words "I, Shri/Shrimati/Kumari....., hereby apply" shall be substituted;

(*iii*) for the words beginning with "I hereby declare" and ending with "danger to the public", the following figures, words, brackets and letters shall be substituted, namely:—

'II

Declaration as to physical fitness of the applicant

(The applicant is required to answer "yes" or "no" in the space provided opposite each question).

(*a*) Do you suffer from epilepsy, or from sudden attacks of disability, giddiness or fainting?

(*b*) Are you able to distinguish with each eye (or if you have held a licence to drive a motor vehicle for a period of not less than five years and if you have lost sight of one eye after the said period of five years and if the application is for driving a light motor vehicle, other than a transport vehicle, fitted with an outside mirror on the steering wheel side, with one eye), at a distance of 25 metres in good daylight (with glasses, if worn), a motor car number plate containing seven letters and figures?

(*c*) Have you lost either hand or foot or are you suffering from any defect in movement, control or muscular power of either arm or leg?

(*d*) Can you readily distinguish pigmentary colours red and green?

(*e*) Do you suffer from night blindness?

(*f*) Are you so deaf as to be unable to hear (and if you are an applicant for the renewal of a driving licence in respect of light motor vehicle with or without hearing-aid) the ordinary sound signals?

(*g*) Do you suffer from any other disease or disability likely to cause your driving of a motor vehicle to be a source of danger to the public?

I declare that to the best of my knowledge and belief, the particulars given in Section I and the declaration made in Section II hereof are true.

NOTE 1.—An applicant who answers "yes" to any of the questions (*a*), (*c*), (*e*), (*f*) and (*g*) or "no" to either of the questions (*b*) and (*d*) should amplify his answer with full particulars and may be required to give further information relating thereto.

NOTE 2.—An applicant who answers "yes" to questions (*b*), (*c*) and (*d*) in the declaration and "no" to the other questions may claim to be subjected to a test as to his competency to drive vehicles of a specified class or classes.

NOTE 3.—An application for renewal of a driving licence to drive as a paid employee or to drive a transport vehicle or where in any other case the original licence was issued on production of a medical certificate, shall be accompanied by a medical certificate in Form C.';

(*d*) in Form C, in sub-paragraph (*d*) of paragraph 4, after the word "hearing", the brackets and words "(and in the case of an applicant for a licence to drive a light motor vehicle, with or without hearing-aid)" shall be inserted;

(*e*) in Form D,—

(*i*) for the expression "son/daughter of (father's name)", the expression "wife/son/daughter, of" shall be substituted;

(*ii*) for the words "He is", the expression "He/She is" shall be substituted;

(*f*) in Form E,—

(*i*) in item 1, for the words "or husband", the words and brackets "and husband (in the case of a married woman)" shall be substituted;

(*ii*) after item 7, the following item shall be inserted, namely:—

"7A. Cubic capacity.....";

(*iii*) after item 10, the following item shall be inserted, namely:—

"10A. Fuel used in the engine.....";

(*iv*) for item 15, the following item shall be substituted, namely:—

"15. Maximum laden weight—

(*a*) as certified by manufacturer.....Kgms.

(*b*) to be registered.....Kgms.";

(*v*) for the Note, the following Note shall be substituted, namely:—

"NOTE.—The motor vehicle above described is—

(*i*) subject to a hire-purchase agreement with.....;

(*ii*) subject to a hypothecation in favour of.....;

(*iii*) not held under hire-purchase agreement or subject to any mortgage.

(Strike out whatever is not applicable and, if the motor vehicle is subject to hire-purchase agreement or hypothecation, obtain the signature of the hire-purchase company or the mortgagee, as the case may be).";

(*vi*) for the words "*Signature of the Hire Purchase Company.*", the following expression shall be substituted:—

"Signature of $\frac{\text{"Hire-purchase Company}}{\text{Mortgagee"}}$;

(*g*) in Form G,—

(*i*) in line 8, for the words "or husband", the words and brackets "and husband (in the case of a married woman)" shall be substituted;

(*ii*) after item 7, the following item shall be inserted, namely:—

"7A. Fuel used in the engine.....";

(*iii*) after item 8, the following item shall be inserted, namely:—

"8A. Cubic capacity.....";

(*iv*) for item 12, the following item shall be substituted, namely:—

"12. Maximum laden weight—

(*a*) as certified by the manufacturer.....Kgms.

(*b*) as registered.....Kgms";

(*v*) for the Note, the following Note shall be substituted, namely:—

"NOTE.—The motor vehicle above described is—

(*i*) subject to a hire-purchase agreement with.....;

(*ii*) subject to a hypothecation in favour of.....;".

Amendment of Second Schedule.

79. In the Second Schedule to the principal Act,—

(*i*) in paragraph 4, after the words "with each eye", the following brackets and words shall be inserted, namely:—

"(or in the case of a person who has held a licence to drive a motor vehicle for a period of not less than five years and lost sight of one eye after the said period of five years and has applied for a licence to drive a light motor vehicle, other than a transport vehicle, with one eye)";

(*ii*) in paragraph 5, after the word "hearing", the words "or in the case of a person who has applied for a licence to drive a light motor vehicle, with or without hearing-aid" shall be inserted.

Substitution of Third Schedule.

80. For the Third Schedule to the principal Act, the following Schedule shall be substituted, namely:—

"THE THIRD SCHEDULE

[*See* sections 7(*6*) and 17(*6*)]

TEST OF COMPETENCE TO DRIVE

PART I

The candidate shall satisfy the person conducting the test that he is able to—

(*1*) start the engine of the vehicle;

(*2*) move away straight ahead and at an angle, while at the same time engaging the first and intermediate gears until the top gear is reached;

(*3*) change down to the lower gear quickly from the top gear when the traffic conditions warrant such change;

(*4*) overtake, allow to be overtaken, meet or cover the path of other vehicles and take an appropriate course with proper caution giving appropriate signals;

(*5*) turn right and left corners correctly;

(*6*) stop the vehicle in an emergency and normally and in the latter case bring it to rest at an appropriate course of the road;

(7) drive the vehicle backwards and whilst so doing enter a limited opening to the right and left;

(8) cause the vehicle to face in the opposite direction by means of forward and reverse gears;

(9) give by hand and by mechanical means (if fitted to the vehicle), or, in the case of a disabled driver for whom it is impracticable or undesirable to give signals by hand, by mechanical means in a clear and unmistakable manner, appropriate signals at appropriate times to indicate his intended actions;

(10) act correctly and promptly on all signals given by traffic signs, automatic traffic lights, traffic police or other authorised persons and take appropriate notice of signs given by other road users;

(11) demonstrate general control of the vehicle by confident steering and smooth gear changing and braking as and when necessary;

(12) to change quickly to lower gear while driving downhill;

(13) to stop and re-start the vehicle on a steep upward incline making proper use of the handbrake or of the throttle and the footbrake without any rolling back.

NOTE.—(i) Requirements (7) and (8) are not applicable in the case of a motor cycle or a tri-cycle not equipped with means for reversing;

(ii) Requirements (7), (8) and (9) are not applicable in the case of invalid carriages.

PART II

The candidate shall satisfy the person conducting the test that he is—

(1) cognizant of the provisions of sections 81, 82, 83, 84 and 85 and of the Tenth Schedule;

(2) conversant with the general traffic rules and regulations relating to the use of lights, speeding, parking, stopping the vehicle in an emergency, accidents, production of documents, right of way, controlled and uncontrolled pedestrian crossings, meaning of light signals (amber, red and green), overtaking, taking a "U" turn, silence zones, one-way traffic, driving on channelised roads and other relevant matters;

(3) aware of the meaning of the traffic signs specified in the Ninth Schedule;

(4) not so deaf as to be unable to hear (or in the case of a person who has applied for a licence to drive a light motor vehicle with or without hearing-aid), the ordinary sound signals. (This shall not apply to a person who has produced a medical certificate in Form C);

(5) able to distinguish with each eye (or in the case of a person who has held a licence to drive a motor vehicle for a period of not less than five years and lost sight of one eye after the said period of five years and has applied for a licence to drive a light motor vehicle, other than a transport vehicle, fitted with an outside mirror on the steering wheel side, with one eye) at a distance of 25 metres in good day light (with glasses if worn) a motor car number plate containing seven letters and figures. (This shall not apply to a person who has produced a medical certificate in Form C.).".

Substitution of Sixth Schedule.

81. For the Sixth Schedule to the principal Act, the following Schedule shall be substituted, namely:—

"THE SIXTH SCHEDULE

[*See* sections 24(*3*) and 29(*2*)]

REGISTRATION MARKS

One of the groups of letters specified in the second column followed by any other letter shall be used as the registration mark for a vehicle in the State specified in the first column.

1	2
Andhra Pradesh	AP, AA
Assam	AS
Bihar	BR, BH
Gujarat	GJ, GT
Kerala	KL
Madhya Pradesh	MP, CP
Madras	MD, MS
Maharashtra	MR, MH
Mysore	MY, ME

1	2
Nagaland	NL
Orissa	OR, OS
Punjab	PN, PU
Rajasthan	RJ, RS
Uttar Pradesh	UP, US, UT
West Bengal	WB, WG, WM
Delhi	DL, DH
Goa, Daman, Diu	GD
Himachal Pradesh	HI, HP
Manipur	MN
Pondicherry	PY, PD
Tripura	TR
Andaman and Nicobar Islands	AN
Laccadive, Minicoy and Amindivi Islands	LC, MA

NOTE 1.—These letters shall be followed by not more than four figures, and the letters and figures shall be shown—

1.	In the case of transport vehicles.	In black on a white ground.
2.	In the case of temporary registrations (section 25).	In red on a yellow ground.
3.	In the case of registration marks allotted to dealers (section 41(*d*)(*k*).	In white on a red ground.
4.	In other cases.	In white on a black ground.

NOTE 2.—In respect of the Maharashtra State, the letters BM, BY may continue to be used in respect of vehicles which were registered before the 1st October, 1961.".

Substitution of Eighth Schedule.

82. For the Eighth Schedule to the principal Act, the following Schedule shall be substituted, namely :—

"THE EIGHTH SCHEDULE

(*See* section 71)

LIMITS OF SPEED FOR MOTOR VEHICLES

Class of vehicle	Maximum speed per hour in Kilometres
(*1*) If all the wheels of the vehicle are with pneumatic tyres and the vehicle is not drawing a trailer :—	
(*a*) if the vehicle is a light motor vehicle or a motor cycle	No limit.
(*b*) if the vehicle is a medium or heavy passenger motor vehicle	60

Class of vehicle	Maximum speed per hour in Kilometres
(*c*) if the vehicle is a medium or heavy goods motor vehicle	60
(*d*) if the vehicle is a heavy goods motor vehicle with an articulated trailer.	50
(*2*) If the vehicle is drawing not more than one trailer (or in the case of artillery equipment, not more than two trailers) and all the wheels of that vehicle and the trailer are fitted with pneumatic tyres :—	
(*a*) if the vehicle is a light motor vehicle and the trailer being two-wheeled has a laden weight not exceeding 800 kgms	60
(*b*) if the vehicle is a light motor vehicle and the trailer has more than two wheels or a laden weight exceeding 800 kgms.	50
(*c*) if the vehicle is a medium motor vehicle . .	50
(*d*) if the vehicle is a heavy motor vehicle . .	40
(3) Any case not covered by entry (*1*) or entry (*2*). .	30"

Insertion of new Schedule.

83. After the Eleventh Schedule to the principal Act, the following Schedule shall be inserted, namely :—

"THE TWELFTH SCHEDULE

(*See* section 135)

REPEAL OF CERTAIN ENACTMENTS

Serial No.	Short title	Extent of repeal
1	2	3
1.	Motor Vehicles (Andhra Pradesh) (Andhra Area) Amendment Act, 1948 (20 of 1948) .	The whole except sections 1 and 12.
2.	Motor Vehicles (Andhra Pradesh) (Telangana Area) Amendment Act, 1956 (45 of 1956) .	The whole.
3.	Assam State Road Transport Act, 1954 (30 of 1954).	The whole.

1	2	3
4.	Assam State Road Transport (Amendment) Act, 1955 (18 of 1955)	The whole.
5.	Motor Vehicles (Bihar Amendment) Act, 1949 (27 of 1950)	The whole except sections 1 and 3.
6.	Motor Vehicles (Bihar Amendment) Act, 1953 (1 of 1954)	The whole.
7.	Motor Vehicles (Madras Amendment) Act, 1948 as applicable to Kerala (20 of 1948) .	The whole except sections 1 and 3.
8.	Motor Vehicles (Madras Amendment) Act, 1949 as applicable to Kerala (44 of 1949) .	The whole.
9.	Motor Vehicles (Madras Amendment) Act, 1954 as applicable to Kerala (39 of 1954) .	The whole.
10.	Motor Vehicles (Madras Amendment) Act, 1948 (20 of 1948)	The whole except sections 1, 3 and 5.
11.	Motor Vehicles (Madras Amendment) Act, 1949 (44 of 1949)	The whole.
12.	Motor Vehicles (Madras Amendment) Act, 1954 (39 of 1954)	The whole except sections 1 and 2.
13.	Central Provinces and Berar Motor Vehicles (Amendment) Act, 1947 as applicable to Madhya Pradesh (3 of 1948) . . .	The whole.
14.	Motor Vehicles (Bombay Amendment) Act, 1947 (7 of 1947)	The whole.
15.	Central Provinces and Berar Motor Vehicles (Amendment) Act, 1947 as applicable to Maharashtra (3 of 1947)	The whole.
16.	Motor Vehicles (Bombay Amendment) Act 1954 (31 of 1954)	The whole.
17.	Motor Vehicles (Hyderabad Amendment) Act, 1956 as applicable to Maharashtra (55 of 1956).	The whole.
18.	Motor Vehicles (Mysore Amendment) Act, 1953 (14 of 1953).	The whole.
19.	Motor Vehicles (Mysore Amendment) Act, 1955 (166 of 1955)	The whole.

1	2	3
20.	Motor Vehicles (Bombay Amendment) Act, 1947 as applicable to Mysore (7 of 1947) .	The whole.
21.	Motor Vehicles (Bombay Amendment) Act, 1954 as applicable to Mysore (31 of 1954) .	The whole.
22.	Motor Vehicles (Hyderabad Amendment) Act, 1956 as applicable to Mysore (45 of 1956) .	The whole.
23.	Motor Vehicles (Madras Amendment) Act, 1948 as applicable to Mysore (20 of 1948) .	The whole.
24.	Motor Vehicles (Madras Amendment) Act, 1949 as applicable to Mysore (45 of 1949) .	The whole.
25.	Orissa Motor Vehicles (Amendment) Act, 1948 (1 of 1949)	The whole.
26.	Orissa Motor Vehicles (Regulation of Stage Carriage and Public Carrier's Services) Act, 1947 (36 of 1947)	The whole.
27.	Orissa Motor Vehicles (Regulation of Stage Carriage and Public Carrier's Services) Amendment Act, 1951 (41 of 1951) . .	The whole.
28.	Motor Vehicles (East Punjab Amendment) Act, 1948 (28 of 1948)	The whole except sections 1, 3, 4 and 10.
29.	Motor Vehicles (United Provinces Amendment) Act, 1948 (11 of 1948.) . . .	The whole.
30.	Motor Vehicles (Uttar Pradesh Amendment) Act, 1953 (28 of 1953).	The whole.
31.	Uttar Pradesh Road Transport Services (Development) Act, 1955 (9 of 1955) . . .	The whole except sections 1 and 14.
32.	Motor Vehicles (West Bengal Amendment) Act, 1951 (19 of 1951).	The whole.
33.	Motor Vehicles (Delhi Amendment) Act, 1954 (5 of 1954).	The whole.
34.	Himachal Pradesh State Road Transport Act, 1953 (5 of 1954)	The whole "

STATEMENT OF OBJECTS AND REASONS

The Motor Vehicles Act, 1939 was amended comprehensively in 1956. Some minor amendments were also effected in the Act in 1960. With the rapid development of road transport during the past few years, a large number of suggestions for amendment of the Act have been received from the various State Governments and persons interested in the industry. The nationalised road transport undertakings have on the strength of their experience, also been pressing for some changes in the provisions which were introduced in 1956. Further, two Committees appointed by the Government, *viz.*, the Road Transport Reorganisation Committee, 1959 (commonly known as the Masani Committee) and the Motor Vehicles Insurance Committee, 1962-63, have made a number of recommendations requiring amendments to the Act. Besides, some suggestions for the amendment of the Act have also been made by some other bodies including the Technical Committee on Road Transport, the Road and Inland Water Transport Advisory Committee and the Transport Development Council. The Bill seeks to give effect to the above mentioned recommendations and to remove the difficulties with regard to the administration of the Act which have come to the notice of the Central Government from time to time.

The main purpose of the Bill is to provide for stricter control over drivers; liberalisation of the existing provisions relating to compensation payable to victims of road accidents; liberalisation of restrictions on inter-State movement of motor vehicles including tourist vehicles; provision of better facilities and amenities in tourist vehicles; improvements in the procedure for the grant and renewal of permits, registration certificates, driving licences and certificates of vehicle fitness; speedy and effective enforcement of the motor vehicle law; removal of procedural difficulties and doubts in regard to interpretation of certain provisions by clarifying the intention; levy of fees by various authorities for any specific services rendered by them; more severe punishment for repeated offences of the same nature; revision of the speed limits and weight limits of certain categories of vehicles, and omission of certain obsolete provisions as well as repeal of such State amendments to the Act as are repugnant to the provisions of the Act.

The Bill also seeks to provide for the following matters which are not covered by the existing law, namely:—

(1) Compulsory insurance of motor vehicles against damage to property of third parties, including public property, of a value not exceeding Rs. 2,000.

(2) Imposition of penalty for wilful misrepresentation of facts by the registered owner of a vehicle to the insurer.

(3) Imposition of penalty for vexatious attempt by the insurer to repudiate his liability.

(4) Imposition of liability on the insurer to make a special deposit for payment of any claims that are unreasonably delayed or that may be settled after the insurer has gone into liquidation.

(5) Levy of interest where the insurer or the owner or the driver of the vehicle, as the case may be, delays payment of compensation decreed by a Court or awarded by a Tribunal.

(6) Covering of passenger risks in public service vehicles irrespective of the culpability of the owner or driver of such vehicle for any accident in which it may be involved provided that there was no contributory negligence on the part of the victim.

(7) Empowering of a hirer who possesses a driving licence for motor cars, to drive a taxi.

(8) Exemption from the requirement regarding the countersignature of permit of a transport vehicle operating on an inter-State route in cases where the terminal points of the route are within the same State but the route passes over a distance of less than 16 kms. through another State.

(9) Validation of a specified number of contract carriage permits relating to tourist coaches and tourist taxis issued in one region of the State, in the other regions of that State without counter-signatures by the transport authorities of the other regions.

(10) Validation of a specified number of contract carriage permits relating to tourist coaches and tourist taxis issued in one State, in the other States without counter-signatures.

(11) Appointment of State Transport Appellate Tribunals, constituted by full-time judicial officers not below the rank of a District Judge, to hear appeals/revisions against the orders of the State/Regional Transport Authorities.

The provisions of the Bill have been more fully explained in the Notes on clauses of the Bill.

NEW DELHI; RAJ BAHADUR.

The 6th December, 1965.

Notes on Clauses

Clause 2.—Sub-clause (a).—It has been noticed that private cars are sometimes being hired or leased to third parties on a time basis without a route or area permit, taking advantage of the fact that the existing definition of a contract carriage does not visualise the hiring of a vehicle on time basis. This sub-clause therefore, seeks to include in this definition a car hired on time basis without reference to any particular route or distance.

Sub-clauses (b) and (c).—Motor vehicles are classified as "heavy", "medium" and "light" for purposes of speed restrictions and also for the grant of driving licences. For instance, the maximum speed prescribed for a heavy vehicle is less than that prescribed for a medium or a light vehicle. In view of the improvement in recent years in the design of motor vehicles and also in road conditions, these sub-clauses seek to increase the weight limits for motor vehicles falling within this classification.

Sub-clause (d).—Small three-wheelers (used for purposes of passenger transport) weigh slightly more than 500 kilograms but less than 600 kilograms. Instead of defining these vehicles separately for the purposes of the Act, this sub-clause seeks to classify them as motor-cycles by increasing the weight limit prescribed in regard to motor-cycles.

Sub-clause (e).—Tourist coaches and tourist taxis are not defined in the Act at present. This sub-clause seeks to include them in the category of contract carriages so as to enable State Governments to ensure that vehicles used solely for tourists conform to much better standards of comfort as the State Government may specify in this behalf.

Clause 3.—Under the existing law, a person possessing a driving licence for a private car cannot drive a taxi cab even for his own use. In foreign countries, however, it is possible to hire and drive a taxi cab, on payment of moderate charges. This clause seeks to introduce a similar facility in India, particularly for the purpose of promotion of tourism.

Clause 4.—At present, a person has to apply for a driving licence to the licensing authority of the area where he ordinarily resides or carries on business. It has been pointed out that motor driving

training schools do not exist in all the districts and it will be convenient to a person who undergoes training in a school to secure his driving licence before leaving the school. This clause enables a person to obtain a driving licence from the licensing authority of the area in which the school where he gets training in motor driving is situated.

Clause 5.—Sub-clause (*a*).—At present, a driver of a transport vehicle and paid drivers of other motor vehicles are required to produce medical certificates only when they get the driving licence for the first time. With a view to reducing the risk of accidents owing to any disease or disability from which the holder of the licence may suffer, it is proposed to provide by this sub-clause for the production of medical certificate for the renewal of driving licence of such person.

Sub-clause (*b*).—This sub-clause is designed to ensure that unscrupulous drivers with a bad record of driving do not get their licences renewed in other places where their antecedents are not known. To prevent hardship to the drivers a provision has been made for the grant of provisional licences pending the verification of their antecedents.

Clauses 6 and 7.—At present, only total disqualification of a driver is possible. There may, however, be cases where it may be sufficient to restrict a driving licence to only vehicles of a particular class or description. These clauses enable the authorities concerned to order such partial disqualifications.

Clause 8.—This clause makes a consequential amendment.

Clause 9.—Sub-clause (*a*).—This sub-clause enables a State Government to prescribe minimum qualifications for drivers of transport vehicles. It also contains the necessary safeguard to the effect that the existing drivers will be given sufficient time to acquire such qualifications as may be prescribed.

Sub-clause (*b*).—It has been pointed out that hold-up of inter-State traffic can be reduced if the drivers of public carriers' vehicles operating on inter-State permits wear distinctive badges and uniforms. The proposed amendment will enable the State Governments to frame rules prescribing such distinctive badges and uniforms.

Sub-clause (c).—Under clause (i) of sub-section (2) of section 21 of the Act, schools for giving driving instructions are established with the approval of the licensing authority of the area in which the

school is to be established. These schools have also to be inspected and controlled by the licensing authority. The approval, inspection and control involve a considerable amount of work and expenditure on the part of the licensing authority. Since the schools are run on commercial lines and adequate fees are realised from the persons receiving instruction and training, the proposed amendment provides for the levy of registration fee on these schools.

Clause 10.—It has been observed that chassis, registered temporarily and handed over to body-builders, are often not returned by the body-builders within a period of one month. The proposed amendment permits the registering authority to raise the maximum period of validity of temporary registration from one month to three months in respect of such chassis.

Clause 11.—It has been pointed out that considerable difficulties have been experienced in cases in which motor vehicles owners give incorrect addresses when they get their vehicles registered. The proposed amendment enables the registering authority to refuse registration, if inaccuracy in the particulars furnished in the application for registration is detected.

Clause 12.—This clause omits section 29A because the provisions of this section do not serve any useful purpose now.

Clause 13.—At present there are no substantive provisions in the Act, enabling any endorsement on the certificate of registration of a vehicle to indicate that the vehicle is either covered by hire-purchase agreements or is hypothecated against any loans. The existing forms E and G in the First Schedule relating to registration of a motor vehicle, include a provision for indicating the name of the hire-purchase financier if a vehicle at the time of registration is held under an agreement. Detailed provisions have, of course, been made by the State Governments in the Motor Vehicles Rules regarding hire-purchase transactions. However, experience has shown that statutory provisions with regard to this matter are necessary.

Motor vehicles are acquired not merely on hire-purchase basis but also with loans taken from banks, etc. The vehicles are offered as security for such loans. In the absence of any provision in the Act in regard to such hypothecation, it has been pointed out that banks, etc., are reluctant to finance the purchase of vehicles.

This clause provides for the endorsement of hire-purchase or hypothecation agreements on certificates of registration, cancellation of such endorsements and transfer of vehicles held under such agreements.

Clause 14.—The amendments made by this clause are of a purely clarificatory nature and are meant to remove the doubts raised in the course of the administration of section 36.

Clause 15.—It has been pointed out that certificates of fitness in respect of new transport vehicles are granted for different periods in the different States. Since new vehicles are expected to remain road-worthy for at least one year from the date of their registration, it is considered desirable to prescribe this minimum period in the Act itself. It is, however, felt that the certificate of transport vehicle licensed to operate in hilly areas should be subject to review after every six months because such vehicles are put to greater strain than the vehicles operating in plains.

Clause 16.—Sub-clause (a).—This amendment rectifies a mistake which occurred in the Act in 1956.

Sub-clause (b).—This amendment is consequential upon the insertion of new section 31A proposed in clause 13 and it also seeks to empower State Governments to prescribe fees for endorsement of hire-purchase or hypothecation agreements on the certificate of registration.

Clause 17.—Sub-clause (a).—This sub-clause clarifies that a transport vehicle should not be used on a route which is not covered by its permit, even when it does not carry any goods or passengers for hire or reward. This clarification became necessary because of a ruling of a High Court to the effect that the conditions of a permit are not binding on the permit holder when the transport vehicle concerned is run empty.

Sub-clause (b) (ii) and (v).—Experience has indicated that besides the purposes specified in sub-section (3) of section 42 for exemption of transport vehicles from the necessity of taking permits, it is necessary to allow such exemption in the case of the following classes of transport vehicles also:—

(*i*) any transport vehicle used by a dealer of motor vehicles or a body-builder for such purposes (*e.g.*, demonstration of vehicles) as may be specified by the Central Government;

(*ii*) any transport vehicle purchased in one State and proceeding to a place situated in any other State, without carrying any passenger or goods;

(*iii*) any transport vehicle which has been temporarily registered, while proceeding empty to any place for the purpose of regular registration;

(*iv*) any transport vehicle used for such purposes (other than plying for hire or reward) as the Central Government may specify by notification: this is intended to facilitate inter-State movement of transport vehicles, *e.g.*, second-hand transport vehicles purchased in one State to be driven, empty, to another State.

Sub-clause (*b*) (*iv*).—The words "except as may otherwise be prescribed" occurring in the beginning of clause (i) of sub-section (3) of section 42 have been taken, in certain States, to imply that light motor vehicles of the class mentioned in that clause can also be subjected to permit control. It was never intended to subject such vehicles used for non-commercial purposes to permit control. Hence the sub-clause seeks to delete these words.

Clause 18.—This is a clarificatory amendment.

Clause 19.—The proposed amendment enables the State Governments to constitute Regional Transport Authorities in any manner they think fit, *i.e.*, a Regional Transport Authority may consist of a single official or members of a Regional Transport Authority may be officials or non-officials or both. Provision has also been made for the transaction of business in the absence of the Chairman or any other member of a Transport Authority: this provision has been made for removing the doubts which were expressed during the course of administration of the provisions of section 44 of the Act.

Clause 20.—At present the operators have to approach several Regional Transport Authorities for counter-signature of permits when the route covered by such permits passes through several regions. Moreover a permit granted by one Regional Transport Authority is not valid in other regions even in the same State. This clause seeks to enable the grant or counter-signature of inter-regional and inter-State permits by the State Transport Authority.

This clause also requires every applicant for the grant of a stage carriage permit or a public carrier's permit to make a security deposit with a view to preventing the making of frivolous applications for the purpose of preventing the issue of a temporary permit under section 62 of the Act.

Clause 21.—These are clarificatory amendments.

Clause 22.—Unlike sections 51 and 56 which relate to the grant of contract carriage and public carrier's permits, section 48 does not

authorise a Regional Transport Authority to vary or extend or curtail the route or area of a stage carriage permit. Since it may not be possible or desirable in certain cases to open new routes, *e.g.*, when services are required to be provided over a small stretch beyond the terminii of an existing route, it is expedient to treat any such extension as variation of the existing permit. The proposed amendment will facilitate this procedure. Care has been taken to ensure that variation is granted only to serve the public convenience and only for short distances

Clause 23.—It has been pointed out that when taxi permit holders are prosecuted for over-loading, they frequently take the plea that such over-loading does not amount to a breach of any condition of the permit because sub-section (2) of section 51 does not contain a clause analogous to clause (vi) of sub-section (3) of section 48 which applies to stage carriage permits. This clause seeks to clarify the position.

Clause 24.—This amendment is consequential upon the amendments of sections 46 and 48 proposed in clauses 21 and 22.

Clause 25.—It has been pointed out that there is no uniform practice in the different States in regard to the renewal of permits, in cases where orders on renewal applications are passed after the expiry of the permits. In some States, renewal is granted from the date of the expiry of the permit while in others it is effective from the date on which it is actually sanctioned. This clause seeks to make it clear that the period of renewal of the permit shall run from the date of expiry of the original permit and ensures continuity of the permit and uniformity in this matter in all the States. This clause also provides for the refund of the fee paid in respect of temporary permit which may have been granted during the period from the date of expiry of the original permit until the renewal of the permit.

Clause 26.—*Sub-clause* (*a*).—It has been pointed out that replacement of a vehicle by another vehicle of the same capacity is difficult because the vehicles of recent models are generally of larger carrying capacity and that obtaining of a new permit involves not merely delay but competition with other new applicants, including some who have statutory advantage like a co-operative society. The proposed amendment seeks to protect the interest of a person whose permit has not expired but who, for good reasons, has to replace the vehicle covered by his permit by a new vehicle of a different capacity.

Sub-clause (*b*) (*i*).—The amendment seeks to enable a Transport Authority to suspend or cancel the permit of a transport vehicle which has operated without a valid certificate of fitness. It is felt that this executive action of the Transport Authorities will be deterrent to the practice of plying defective transport vehicles which are responsible for many accidents.

Sub-clause (*b*) (*ii*).—This is a clarificatory amendment and brings the provision of clause (c) of sub-section (3) of section 59 in line with the provision of clause (i) of sub-section (1) of section 43.

Sub-clause (*b*) (*iii*)—Section 5 requires that the owner of a vehicle shall not permit the vehicle to be driven by a person who does not hold a proper licence. Section 112 provides a maximum fine of Rs. 100 for the offence for the first time and Rs. 300 for a subsequent offence. It has been felt that this penalty is not adequate and the permit should also be made liable to cancellation or suspension in the case of the owner of a transport vehicle who employs an unlicensed driver. The proposed amendment seeks to achieve this object.

Clause 27.—Sub-clauses (*a*) *and* (*b*).—Since the State and Regional Transport Authorities may consist of several members and it may not be possible for all of them to meet often, it has been considered necessary to delegate their powers of suspending a permit or reducing the number of vehicles or the road or area covered by the permit for a period not exceeding a month, to any person subject to the condition that his order shall be placed within that period before the State Transport Authority or Regional Transport Authority concerned who may either vacate the orders made by that person or pass such other orders as it may consider fit. Such delegation has already been made in several States. There are conflicting judgments in two High Courts on the scope for delegating to the Secretary of a Transport Authority the power to suspend a permit issued by that Authority. The proposed amendment seeks to place the matter beyond doubt.

Sub-clause (*c*).—This sub-clause seeks to vest the power to compound offences conferred on a Transport Authority, in the appellate authority on appeal against an order of the Transport Authority revoking or suspending a permit.

Clause 28.—This amendment seeks to remove the difficulties which have been experienced in the grant of temporary permits in genuine cases, *viz.*, to cover the period of injunction issued by a court or an Appellate Tribunal against the issue of a regular permit or to cover the period of suspension of a permit by a court.

Clause 29.—Sub-clause (*a*).—At present a permit issued in one State for a vehicle which operates on a route passing also through other States will have to be countersigned by all the transit States. It has been pointed out that this procedure serves no useful purpose in regard to a route which originates and terminates in the same State but includes a negligible portion of another State. This amendment dispenses with the counter-signature procedure if the distance in the transit State does not exceed 16 kilometres and it will facilitate the flow of traffic on such routes.

Sub-clause (*b*).—This amendment is consequential upon the insertion of sub-section (2) in section 45 as proposed in clause 20.

Sub-clauses (*c*) *and* (*d*).—There is no uniformity at present in the procedure being followed by the different State Governments in regard to the grant or counter-signature of permits in pursuance of the reciprocal agreements into which they enter. It has been represented that the existing operators providing services in the State in which a permit is countersigned do not sometimes get a reasonable opportunity to make representation about the adequacy of the services for traffic available on the routes in question. It has been further represented that once an inter-State agreement is finalised, its revision may become difficult. This amendment requires a State Government to publish in its Gazette the draft of an agreement which it proposes to conclude with another State Government for the operation of transport vehicles on any inter-State route and provides an opportunity to the existing operators and other interests concerned to file objections. The agreement is to be finalised after considering the objections and it is to be published in the Gazette before implementation.

Sub-clause (*e*).—The existing procedure for the grant of special permits under sub-section (6) of section 63 involves delays which adversely affect tourist traffic. It has been considered that the interests of tourist traffic require the grant of regular inter-regional and inter-State permits for vehicles used exclusively for tourists. Operation of these tourist vehicles will be subject to certain special conditions in the interest of the passengers.

Clause 30.—This clarificatory amendment will obviate the possibility of any conflict between the directions issued by the Inter-State Transport Commission under section 63A(2) (c) and those issued by a State Government under section 43(1).

Clause 31.—The rule-making powers of the Central Government under clause (h) of section 63C enables the constitution of an Appellate Authority against the decision of the Inter-State Transport Commission. It has been pointed out that this rule-making power should be backed by substantive provisions in this matter. Hence this amendment.

Clause 32.—This amendment is consequential upon the amendment made by clause 31.

Clauses 33 and 34.—Sub-clause (a) (i) of clause 33 makes an amendment which is consequential to the amendment of sections 45 and 63 [*vide* clauses 20 and 29 (e)]. The other provisions in these clauses provide for the appointment in each State of Transport Appellate Tribunal with a full-time judicial officer, not below the rank of a District Judge, to hear appeals and revisions against the orders of the State Transport Authority and Regional Transport Authorities. An exception has, however, been made in the case of Union territories in view of their small size and the difficulty in securing the services of whole-time judicial officers in those territories.

The explanation in clause 33 makes it clear that a State Transport Appellate Tribunal will continue to decide whether the orders of the State/Regional Transport Authorities, which seek to give effect to the directions or orders of the Inter-State Transport Commission, are strictly in consonance with the Commission's directions or orders and that at no stage, the subject-matter of the Commission's directions or orders will fall within its jurisdiction. An appeal against the Commission's directions or orders shall be heard by the appellate authority specified by the Central Government under clause (b) of section 63C.

Clause 35.—The Motor Transport Workers Act, 1961, which applied only to motor transport undertakings employing five or more transport workers, restricts the hours of work of drivers of transport vehicles to 8 hours per day and 48 hours per week. The proposed amendment seeks to bring the existing provisions of the Motor Vehicles Act in line with the requirements of the Motor Transport Workers Act in respect of hours of work of drivers.

Clause 36.—Rules have been made by certain State Governments under clause (w) and (ww) of sub-section (2) of section 68 for licensing of persons engaged in the business of sale of tickets for travel by public service vehicles and in the business of collecting, forwarding and distributing goods carried by public carriers. These rules of one State have been declared null and void by that State's

High Court. The proposed new section 66A seeks to remove any doubt about the validity of the rules under said section by making substantive provisions in the Act.

Clause 37.—Sub-clause (*a*).—This amendment is consequential upon the insertion of proviso (ii) in sub-section (2) of section 44 by clause 19(*b*).

Sub-clause (*b*).—It has been pointed out that applications for permits which are required to be published under section 57, for any representations by the interests affected, are not published for considerable periods—thereby delaying a decision on the applications. It has also been represented that copies of the applications should be supplied to those who, on payment of specified fee, desire to be placed on the list of subscribers for this purpose. This amendment, therefore, authorises the State Government to provide for the publication of applications within a reasonable time from the date of their receipt and also for the grant of copies of applications to the interests affected on payment of fee to be specified in this behalf.

Sub-clause (c).—This is a clarificatory amendment.

Clause 38.—Sub-clause (*a*).—Sub-clause (iii) of clause (b) of section 68A is superfluous as the Delhi Road Transport Authority Act, 1950 has already been repealed by the Delhi Municipal Corporation Act, 1956 and the Delhi Transport Undertaking is now covered by sub-clause (iv) of clause (b) of the said section 68A.

Sub-clause (*b*).—This amendment seeks to bring within the purview of Chapter IVA of the Act such road transport undertakings as are owned or controlled by the Central Government or by the Central Government and one or more State Governments.

Clause 39.—Experience has shown that innumerable objections most of them frivolous, are filed under sub-section (1) of section 68D by persons who have no interest in the matter, presumably at the instigation of affected private operators so that there may be delay in finalising the schemes by State Road Transport Undertakings. This amendment restricts representations which may be filed against the schemes of State Road Transport Undertakings to the classes of persons who are at present eligible to file such objections under sections 47 and 55 of the Act relating to the procedure for considering applications for stage carriage and public carrier's permits.

Clause 40.—Sub-clause (*i*).—This amendment seeks to enable certain modifications to be made by a State Transport Undertaking in its approved scheme, with the prior approval of the State Gov-

ernment, without publishing the modifications for the purpose of inviting objections, in respect of completely nationalised routes. This provision will be in the public interest, as State Transport Undertakings will be able to adjust timing of their service quickly in response to public requirements.

Sub-clause (*ii*).—This amendment authorises the State Government to review and modify an approved scheme of a State Road Transport Undertaking, at any time in the light of its working, after giving a hearing to the persons concerned in the event of the modifications being prejudicial to their interest.

Clause 41.—Sub-clause (*a*) (*i*).—The existing provision which requires a State Transport Undertaking to apply for permits in the manner specified in Chapter IV for implementation of its scheme, does not serve any useful purpose, because the views of the concerned persons would have already been taken into account by the State Government before approving the scheme. This amendment, therefore, leaves it to the State Governments to prescribe the manner in which the applications for permits should be made by State Transport Undertakings.

Sub-clause (*a*) (*ii*).—This amendment requires the making of applications by State Transport Undertakings for permits to the State Transport Authority if the route or area which will be covered by the permit lies in more than one region.

Sub-clause (*b*) (*i*).—This amendment is consequential upon the amendment in sub-clause (a) (ii).

Sub-clause (*b*) (*ii*).—This amendment enables the Transport Authority to refuse to entertain any application for the grant of any permit to a party other than the State Transport Undertaking and to reject any such pending application, in order to enable a State Transport Undertaking to implement its approved scheme.

Sub-clause (*c*).—This amendment is consequential upon the amendment in sub-clause (a) (ii).

Clause 42.—This new section seeks to prohibit the grant of regular permits to private operators after the State Government has approved the scheme prepared by a State Transport Undertaking, in respect of the route on which services are to be operated by that undertaking alone in pursuance of that scheme. Provision has also

been made for the grant of temporary permits to private operators till the State Transport Undertaking is able to implement the scheme.

Clause 43.—This amendment is consequential upon the amendment in sub-clause (a) (ii) of clause 41.

Clause 44.—This provision enables a State Transport Undertaking to dispose of articles found in its vehicle, after following such procedure as may be prescribed by the State Government. The sale proceeds, after deducting the costs incidental to sale, shall have to be paid to the owner of the articles.

Clause 45.—These amendments are consequential upon the amendments made by sub-clause (a) (i) of clause 41 and clause 44.

Clause 46.—It vests in the Central Government the powers which have been conferred on the State Governments by Chapter IVA in relation to State Transport Undertakings owned or controlled by it, so far as inter-State routes or areas are concerned. This provision is for administrative convenience.

Clause 47.—This provision makes it clear that all motor vehicles which are manufactured in this country and which do not have right hand steering control shall be equipped with mechanical or electrical signalling devices of a prescribed nature.

Clauses 48 and 49.—These amendments seek to make clear that manual signalling by drivers will be permitted in the case of vehicles with right hand steering control and that in the case of vehicles with left hand steering control the signal shall be given by mechanical or electrical devices fitted to the vehicles. Provision has also been made for grant of exemption by the Central Government in respect of specified motor vehicle or class of motor vehicles for the purpose of plying in specified areas or routes. Such exemption may be necessary in areas where the roads are very narrow and where even the spare tyres have to be removed from the sides of jeeps (*e.g.* in NEFA).

Clause 50.—This amendment is consequential upon the amendment made by sub-clause (a) (i) of clause 54.

Clause 51.—At present sub-section (IA) of section 92 enables the Central Government to make rules for the purpose of facilitating and regulating the services of motor vehicles operating between India

and any other country contiguous to it under any reciprocal arrangement and carrying passengers or goods or both for hire or reward. This clause seeks to authorise the Central Government to make such rules for the operation of transport vehicles between India and any foreign country, whether contiguous to it or not under reciprocal arrangements. Although the necessity of framing such rules does not exist at present, it is considered advisable to make this enabling provision for use as and when necessary.

Clause 52.—These amendments are consequential upon the amendments made by sub-clause (a) (i) of clause 54.

Clause 53.—This amendment is consequential upon the amendment made by sub-clause (b) of clause 38.

Clause 54.—*Sub-clause* (*a*) (*i*).—This amendment requires that a policy of insurance of a motor vehicle under Chapter VIII covers the following additional matters, namely:—

(1) damage to any property of a third party;

(2) death or bodily injury to any passenger of a public service vehicle, even though the owner or the driver of the vehicle may not be responsible for the accident, provided there is no contributory negligence on the part of the passenger.

Sub-clause (*a*) (*ii*).—It has been contended that if a motor vehicle which is being driven on a public road gets out of control and knocks down a person in some private premises situated by the side of that road, that person or his heirs will not be entitled to any compensation from the insurance company. This amendment makes it clear that an accident shall be deemed to have been caused in a public place notwithstanding the fact that the person injured or the property damaged by the accident was not actually in a public place, if the cause which led to the accident had occurred in a public place.

Sub-clause (*b*).—These amendments enhance suitably the limits up to which the various classes of motor vehicles are required to be insured. The existing limits were laid down in 1939 and there has been considerable rise in the cost of living and increase in the carrying capacity of motor vehicles since then.

At present damage to third party property is not covered by a policy of insurance under Chapter VIII. This sub-clause seeks to lay down a limit of Rs. 2,000 in respect of damage to any property of a third party, with a view to avoiding the inconvenience, delay or harassment to people of small means.

Clause 55.—This clause seeks to require an insurer to make a deposit of Rs. 30,000 as security for the due discharge of any liability covered by a policy of insurance issued by him under Chapter VIII. This deposit will be in addition to the deposit required to be made by him under the Insurance Act, 1938. This provision will ensure payment of compensation to victims in cases where compensation has been decreed by the competent authority but payment is denied or unreasonably delayed by the insurer.

Clause 56.—At present there is no provision in the Act in regard to transfer of the insurance policy after the sale of a vehicle to which it relates. Different views have been expressed by different High Courts in regard to the rights of the insurer and the insured with regard to this matter. The proposed amendment seeks to make necessary provision with regard to the matter.

Clause 57.—This amendment is consequential upon the amendment made by sub-clause (a) (i) of clause 54.

Clause 58.—*Sub-clause* (*a*).—The present wording of clauses (b) and (c) of section 110A (1) does not permit any one of the legal representatives or his duly authorised agent to claim compensation. The proposed amendment seeks to make the necessary provision in this behalf.

Sub-clause (*b*).—This amendment raises the time limit of 60 days for filing an application for compensation, to six months.

Clause 59.—At present it is open to a workman to file a claim before a Commissioner for compensation under the Workmen's Compensation Act, 1923, even though he had preferred a claim earlier under the Motor Vehicles Act to a Motor Accidents Claims Tribunal and that claim had been adjudicated upon by that tribunal. It was never intended, nor it is desirable, to allow a workman to claim relief under both the Acts. Hence this proposed amendment.

Clause 60.—This amendment is of a clarificatory nature.

Clause 61.—This clause seeks to enable the Motor Accidents Claims Tribunal to impose a fine on a party, who wilfully remains absent or fails to give evidence, and to suspend his driving licence if that party is the driver of the vehicle involved in the accident and to suspend the permit or registration certificate if that party is the owner of the vehicle involved in the accident. This clause also seeks to empower the tribunal to permit the insurer to contest a claim where it is satisfied that (i) there is a collusion between the claimant and

the person against whom the claim is made, or (ii) the person against whom the claim is made, has failed to contest the claim.

Clause 62.—The proposed new sections seek to provide for the award of interest by any Court or Claims Tribunal where the payment of compensation is delayed and also for the award of compensatory costs where the policy of insurance has been obtained by non-disclosure or mis-representation of a material fact or where a party has put forward a false or vexatious claim or defence. These provisions are intended to expedite settlement of claims and payment of compensation.

Clause 63.—This amendment enables recovery of compensation, as arrear of land revenue, from any person against whom the decree or award of compensation is passed. The existing provision is confined to insurers only.

Clause 64.—This amendment seeks to enable the State Governments to provide for levy of fees on appeals against the awards of Motor Accidents Claims Tribunals.

Clause 65.—This amendment seeks to make an offence under section 5 punishable with imprisonment or/and fine as in sub-section 1 of section 114. At present this offence is punishable under section 112, with fine up to Rs. 100 on the first occasion and Rs. 300 on subsequent occasions.

Clause 66.—This amendment enhances the amount of the maximum fine prescribed for the offence of driving at excessive speed and of causing a person to drive at excessive speed. It is felt that the enhanced fine will discourage driving at excessive speed.

Clause 67.—At present the offence of overloading a public service vehicle is punishable under section 112. That section provides punishment for various offences of a minor nature. Offence of overloading of buses and taxis being quite serious, this clause seeks to bring the offence within the purview of section 123.

Clause 68.—This clause seeks to provide punishment for the offence of engaging without proper licence in the business of sale of tickets for travel by public service vehicles or in the business of collecting, forwarding or distributing goods carried by public carriers. The punishment is the same as in section 123 for operating a transport vehicle without a permit.

Clause 69.—It is a clarificatory amendment.

Clause 70.—The new section provides for a minimum fine for a second subsequent offence, if committed within a period of three years from the date of a commission of the previous offence.

Clause 71.—This amendment seeks to enable seizing of the certificate of registration of a vehicle for an alleged offence of using the vehicle without a permit, so that the vehicle-owner may not transfer the vehicle to another person to defeat the object of prosecution.

Clause 72.—The existing provisions of section 130 take away the power of courts to impose the maximum punishment prescribed by the various sections of the Act, in respect of offences which are not specified in Part A of the Fifth Schedule to the Act, and restrict the power of the Court to impose fine up to Rs. 25. It was never intended that the procedure of summary disposal laid down in that section should whittle down the court's discretion to impose, on the facts of a case, the maximum punishment laid down in the other sections. Hence the proposed amendment.

Clause 73.—This new section seeks to require courts to indicate to the licensing authorities particulars of the drivers who are convicted by them and also of the punishment imposed.

Clause 74.—State Governments have made rules providing for levy of fees for the various purposes connected with the administration of this Act and for which there is no specific provision in the Act. It has been pointed out that the validity of these rules is open to doubt, in the absence of a specific provision in the Act authorising the levy of fees for these purposes. This new section seeks to remove this doubt.

Clause 75.—This amendment seeks to confer certain additional powers on the officers of the State Governments' Motor Vehicles Departments, for the purpose of enforcement of the various provisions of this Act. Similar powers are already being exercised by Police personnel who are on deputation to these departments.

Clause 76.—This amendment seeks to empower the appellate/revisionary authority to extend the period of validity of a permit, on appeal/revision against refusal to renew it, until the appeal/revision is disposed of. It has been pointed out that absence of this power has resulted in hardship in genuine cases.

Clauses 77 and 83.—This new section and the Twelfth Schedule seek to repeal such provisions of the State Acts as are repugnant to the provisions of the Motor Vehicles Act, 1939 or are redundant in

view of the provisions of the Act and to the repeal of which the State Governments have agreed.

Clause 78.—Sub-clause (a) (i) and Clause 79. (i).—These amendments seek to enable a person, who had held a driving licence for 5 years or more and loses his sight in one eye thereafter, to continue to be qualified for driving a non-commercial light vehicle. It has been pointed out that the present requirement of reading a registration mark with *each* eye does not exist in many foreign countries and that it entails hardship to one-eyed persons who are otherwise fit to drive. It is felt that the proposed provision will not increase the risk of accidents because a person who has been driving for a number of years and loses his sight in one eye threafter, will have acquired considerable road experience and driving judgment for safe handling of a non-commercial light vehicle.

Clause 78.—Sub-clauses (a) (ii) and (d) and Clause 79 (ii).—The existing provisions make "a degree of deafness which prevents an applicant from hearing the ordinary sound signals" an absolute disqualification for obtaining a driving licence and do not indicate whether audibility should be tested without the use of ear-aids. It is considered reasonable that a person who can hear with hearing-aid should not be debarred from driving light motor vehicles.

Clause 78.—Sub-clauses (b) and (c) (ii).—These are formal amendments and require the applicant to specify his name clearly in his application for the addition of a new class of vehicle to his driving licence or for the renewal of the licence.

Clause 78.—Sub-clauses (c) (i) and (iii).—The existing form of application for renewal of driving licence does not require the specific indication of any physical defect or disability which might have been developed by the licence holder subsequent to the grant or previous renewal of the licence. This amendment seeks to remove this lacuna and is necessary in the interest of road safety.

Clause 78.—Sub-clauses (e), (f) (i) and (g) (i).—These are formal amendments to make it clear that in the case of married women the name of the husband should be indicated.

Clause 78.—Sub-clauses (f) (ii) and (g) (iii).—These amendments require the mention of cubic capacity in the application for registration and the certificate of registration of a motor vehicle because the insurance companies have adopted the basis of cubic capacity for the purpose of calculating premium.

Clause 78.—*Sub-clauses* (*f*) (*iii*) *and* (*g*) (*ii*).—These amendments are necessary to enable the Motor Vehicles Registering Authority to compile figures of diesel engined and petrol engined vehicles.

Clause 78.—*Sub-clauses* (*f*) (*iv*) *and* (*g*) (*iv*).—These amendments require the mention of the maximum laden weight as certified by the manufacturer, in the application for registration and the certificate of registration of a motor vehicle.

Clause 78.—*Sub-clauses* (*f*) (*v*), (*vi*) *and* (*g*) (*v*).—These amendments are consequential upon insertion of the new section 31A, proposed in clause 13.

Clause 80.—This amendment substitutes the present TEST OF COMPETENCE TO DRIVE by a more comprehensive and stricter test, to improve the standard of driving and to minimise motor vehicle accidents.

Clause 81.—This amendment seeks to bring the existing Sixth Schedule up-to-date by prescribing (i) additional groups of letters for registration marks of motor vehicles in the States where the existing groups of letters are not sufficient to meet the requirement of increasing numbers of vehicles and (ii) groups of letters for those States which were created as a result of the reorganisation of the States. The letters 'AA' have been allotted to Andhra Pradesh in place of the existing letters 'AD' to meet the requirement of that State Government. A provision for retaining the old registration letters (*viz.* BM, BY) in Maharashtra State on motor vehicles registered before 1st October, 1961, has also been made to meet the requirement of that State Government.

Clause 82.—The proposed revised Eighth Schedule seeks to increase the speed limits suitably for certain classes of motor vehicles in view of the improvement in road designs and better types of vehicles now in operation. The increase in speed limits is five or ten kilometres per hour and it is not such as to endanger road safety.

FINANCIAL MEMORANDUM

Under clause 33 of the Bill, the proposed sub-section (2) of section 64 requires the State Governments to constitute in the State a State Transport Appellate Tribunal which shall consist of a whole time judicial officer not below the rank of a District Judge. In the case of a Union territory, however, the tribunal may consist of the Administrator of that territory or any officer who has judicial experience. Appellate authorities already exist in the States and the Union territories. No additional appeal work will be created by this provision and the existing arrangements in the Union territories will continue, except that the appeals will be heard by an officer who has judicial experience. If the present officer who constitutes the appellate authority does not have judicial experience, another person having judicial experience will have to be appointed in his place. This will be done by the transfer of a suitable officer. It is not proposed to make any fresh appointment for this purpose. This provision will not, therefore, actually involve an expenditure out of the Consolidated Fund of India.

Clause 54 of the Bill seeks to raise the limits of insurance for various classes of motor vehicles. Raising the limits of insurance will not, by itself, involve any expenditure from the Consolidated Fund of India in respect of Government vehicles. Government vehicles which are not connected with any commercial enterprise are exempt from insurance under the principal Act. As regards Government vehicles which are connected with a commercial enterprise, they can be granted exemption from this insurance if the concerned department sets up an insurance fund of its own in accordance with the rules framed by the Central Government. These rules provide for contribution to the fund at specified rates. These rates are not proposed to be increased. It is proposed to advise the State Transport Undertakings which are operated departmentally in the Union territories to set up their own insurance funds in accordance with the said rules. If, however, the State Transport Undertakings do not set up such funds, some expenditure from the Consolidated Fund

of India may have to be incurred in respect of the commercial enterprises in the Union territories, but it is not possible at this stage to assess the quantum of such expenditure because such expenditure will depend upon the rates of premia fixed by the insurers.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill empowers the State Governments to make rules in respect of the following matters, namely:—

(i) the minimum qualifications which a person should have in order to be entitled to obtain a licence to drive a transport vehicle and the time within which such qualifications are required to be acquired by persons holding such licence at the commencement of this Act and the duties and conduct of such persons; the distinctive badges and uniforms which are required to be worn by drivers of transport vehicles on inter-State routes and the registration of schools established for the instruction of drivers of motor vehicles and fees to be paid to such schools, (Clause 9);

(ii) the fees which are required to be paid for making or cancelling any endorsement in respect of any agreement of hire-purchase or any hypothecation on a certificate of registration, (Clause 16);

(iii) transaction of business at a meeting of a State Transport Authority or a Regional Transport Authority in the absence of the Chairman or any other member, (Clause 19);

(iv) the authority which shall be competent to grant a licence to a person to engage himself as an agent or canvasser in the sale of tickets for travel by public service vehicles or as an agent in the business of collecting, forwarding or distributing goods carried by public carriers and the conditions subject to which such licence may be issued, (Clause 36);

(v) the manner in which and the time within which every application for a stage carriage permit or a public carrier's permit shall be published and the circumstances under which and fees on payment of which copies of such applications may be granted, (Clause 37);

(vi) the manner in which the applications may be made by a State Transport Undertaking for permits in pursuance of its approved schemes and the period within which the owner may claim an article found left in any transport vehicle operated by a State Transport Undertaking and the manner of sale of unclaimed articles by that Undertaking, (Clause 45);

(vii) the fees on payment of which the appeals may be preferred against the awards of the Motor Accidents Claims Tribunal, (Clause 73);

(viii) the particulars which every Court convicting a licensed driver should communicate to the licensing authority, (Clause 73);

(ix) fees for any matter involving the rendering of any service of the officers or authorities under the Act or any rule made thereunder, (Clause 74);

(x) the powers which may be exercised by any officer of the Motor Vehicles Department in addition to the powers conferred on such officers by clause 75 of the Bill.

2. The Bill also empowers the Central Government to make rules with regard to the following matters, namely:—

(i) additional conditions under which a permit may be granted to a tourist vehicle, (Clause 29);

(ii) the fees on payment of which, an appeal against any decision, direction or order of the Inter-State Transport Commission may be preferred, (Clause 32);

(iii) fees in respect of any matter involving the rendering of any service by the officers or authorities under the Act or any rule made thereunder, (Clause 74).

3. The Bill further empowers the Central Government to exercise the powers conferred on the State Government by Chapter IVA of the principal Act in respect of a corporation or company owned or controlled by the Central Government or by the Central Government and one or more State Governments in relation to an inter-State route or area. The effect of this provision is that the Central Government will have the power to make rules under section 68I of the principal Act in relation to such corporations.

4. The delegation of the legislative powers is of a normal character.

II

BILL No. XXI OF 1965

A bill to provide for the welfare of the workers in beedi and cigar establishments and to regulate the conditions of their work and for matters connected therewith.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

Short title extent and commencement.

1. (*1*) This Act may be called the Beedi and Cigar Workers (Conditions of Employment) Act, 1965.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force in a State on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed by the State Government for different areas and for different provisions of this Act.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "adult" means a person who has completed eighteen years of age;

(*b*) "child" means a person who has not completed fourteen years of age;

(c) "competent authority" means any authority authorised by the State Government by notification in the Official Gazette to perform all or any of the functions of the competent authority under this Act and for such areas as may be specified therein;

(*d*) "contractor" means a person who, in relation to a manufacturing process, undertakes to produce a given result by executing the work through contract labour or who engages labour for any manufacturing process in a private dwelling house and includes a sub-contractor, agent, *munshi, thekedar* or *sattedar;*

(*e*) "contract labour" means any person engaged or employed in any premises by or through a contractor, with or without the knowledge of the employer, in any manufacturing process;

(*f*) "employee" means a person employed directly or through any agency, whether for wages or not, in any establishment to do any work skilled, unskilled, manual or clerical, and includes—

(*i*) any labour who is given raw materials by an employer or a contractor for being made into beedi or cigar or both at home, and

(*ii*) any person not employed by an employer or a contractor but working with the permission of, or under agreement with, the employer or contractor;

(*g*) "employer" means,—

(*a*) in relation to contract labour, the principal employer, and

(*b*) in relation to other labour, the person who has the ultimate control over the affairs of any establishment or who has, by reason of his advancing money, supplying goods or otherwise, a substantial interest in the control of the affairs of any establishment, and includes any other person to whom the affairs of the establishment are entrusted, whether such

other person is called the managing agent, manager, superintendent or by any other name;

(*h*) "establishment" means any place or premises including the precincts thereof in which or in any part of which any manufacturing process connected with the making of beedi or cigar or both is being, or is ordinarily, carried on and includes an industrial premises;

(*i*) "industrial premises" means any place or premises (not being a private dwelling house), including the precincts thereof, in which or in any part of which any industry or manufacturing process connected with the making of beedi or cigar or both is being, or is ordinarily, carried on with or without the aid of power;

(*j*) "Inspector" means an Inspector appointed under sub-section (*1*) of section 6;

(*k*) "manufacturing process" means any process for, or incidental to, making, finishing or packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal as beedi or cigar or both;

(*l*) "prescribed" means prescribed by rules made by the State Government under this Act;

(*m*) "principal employer" means an employer who employs contract labour in any establishment;

(*n*) "private dwelling house" means a house in which persons engaged in the manufacture of beedi or cigar or both reside;

(*o*) "State Government", in relation to a Union territory, means the Administrator thereof;

(*p*) "week" means a period of seven days beginning at midnight on Saturday;

(*q*) "young person" means a person who has completed fourteen years of age but has not completed eighteen years of age.

Industrial premises to be licensed.

3. Save as otherwise provided in this Act, no employer shall use or allow to be used any place or premises as an industrial premises unless he holds a valid licence issued under this Act and no such premises shall be used except in accordance with the terms and conditions of such licence.

Licences.

4. (*1*) Any person who intends to use or allows to be used any place or premises as industrial premises shall make an application

in writing to the competent authority, in such form and on payment of such fees as may be prescribed, for a licence to use, or allow to be used, such premises as an industrial premises.

(2) The application shall specify the maximum number of employees proposed to be employed at any time of the day in the place or premises and shall be accompanied by a plan of the place or premises prepared in such manner as may be prescribed.

(3) The competent authority shall, in deciding whether to grant or refuse a licence, have regard to the following matters:—

(a) the suitability of the place or premises which is proposed to be used for the manufacture of beedi or cigar or both;

(b) the previous experience of the applicant;

(c) the financial resources of the applicant including his financial capacity to meet the demands arising out of the provisions of the laws for the time being in force relating to welfare of labour;

(d) whether the application is made *bona fide* on behalf of the applicant himself or in benami of any other person;

(e) welfare of the labour in the locality, the interest of the public generally and such other matters as may be prescribed.

(4) (a) A licence granted under this section shall not be valid beyond the financial year in which it is granted but may be renewed from financial year to financial year.

(b) An application for the renewal of a licence granted under this Act shall be made at least thirty days before the expiry of the period thereof, on payment of such fees as may be prescribed, and where such an application has been made, the licence shall be deemed to continue, notwithstanding the expiry of the period thereof, until the renewal of the licence, or, as the case may be, the rejection of the application for the renewal thereof.

(c) The competent authority shall, in deciding whether to renew a licence or to refuse a renewal thereof, have regard to the matters specified in sub-section (3).

(5) The competent authority shall not grant or renew a licence unless it is satisfied that the provisions of this Act and the rules made thereunder have been substantially complied with.

(6) The competent authority may, after giving the holder of a licence an opportunity of being heard, cancel or suspend any licence

granted or renewed under this Act if it appears to it that such licence has been obtained by misrepresentation or fraud or that the licensee has contravened or failed to comply with any of the provisions of this Act or the rules made thereunder or any of the terms or conditions of the licence.

(7) The State Government may issue in writing to a competent authority such directions of a general character as that Government may consider necessary in respect of any matter relating to the grant or renewal of licences under this section.

(8) Subject to the foregoing provisions of this section, the competent authority may grant or renew licences under this Act on such terms and conditions as it may determine and where the competent authority refuses to grant or renew any licence, it shall do so by an order communicated to the applicant, giving the reasons in writing for such refusal.

Appeals.

5. Any person aggrieved by the decision of the competent authority refusing to grant or renew a licence or cancelling or suspending a licence may, within such time and on payment of such fees, not exceeding twenty rupees, as may be prescribed, appeal to such authority as the State Government may, by notification in the Official Gazette, specify in this behalf, and such authority may by order confirm, modify or reverse any order refusing to grant or renew a licence or cancelling or suspending a licence.

Inspectors.

6. (1) The State Government may, by notification in the Official Gazette, appoint such of its officers or such officers of any local authority as it thinks fit to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.

(2) The State Government may, by notification in the Official Gazette, appoint any person to be a Chief Inspector who shall exercise the powers of an Inspector throughout the State.

(3) Every Chief Inspector and Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Powers of Inspectors.

7. (1) Subject to any rules made by the State Government in this behalf, an Inspector may, within the local limits for which he is appointed,—

(a) make such examination and hold such inquiry as may be necessary for ascertaining whether the provisions of this Act have been or are being complied with in any place or premises:

Provided that no person shall be compelled under this section to answer any question or to give any evidence which may tend to incriminate himself;

(b) require the production of any prescribed register and any other document relating to the manufacture of beedi or cigar or both;

(c) enter, with such assistants as he thinks fit, at all times any place or premises including the residences of employees if he has reasonable grounds for suspecting that any manufacturing process is being carried on or is ordinarily carried on in any such place or premises;

(d) exercise such other powers as may be prescribed.

(2) If an Inspector has reasonable grounds for suspecting that any manufacturing process is being carried on in any establishment in contravention of the provisions of this Act, he may, after giving due notice to the employer or, in the absence of the employer, to the occupier, enter such establishment with such assistants, if any, as he may think fit.

(3) Every employer or occupier shall accord to the Chief Inspector or the Inspector, as the case may be, all reasonable facilities in the discharge of his duties under this Act.

Cleanliness.

8. Every industrial premises shall be kept clean and free from effluvia arising from any drain, privy or other nuisance and shall also maintain such standard of cleanliness including white washing, colour washing, varnishing or painting, as may be prescribed.

Ventilation.

9. (1) For the purpose of preventing injury to the health of the persons working therein, every industrial premises shall maintain such standards of lighting, ventilation and temperature, as may be prescribed.

(2) Wherever dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the persons employed in any industrial premises is given off by reason of the manufacturing process carried on in such premises, the competent authority may require the employer to take such effective measures as may prevent the inhalation of such dust, fume or other impurity and accumulation thereof in any work room.

Over-crowding.

10. (*1*) No room in any industrial premises shall be overcrowded to an extent injurious to the health of the persons employed therein.

(*2*) Without prejudice to the generality of sub-section (*1*), there shall be in any work room of such premises at least four and a quarter cubic metres of space for every person employed therein, and for the purposes of this sub-section, no account shall be taken of any space which is more than three metres above the level of the floor of the work room.

Drinking water.

11. (*1*) The employer shall make in every industrial premises effective arrangements to provide and maintain at suitable points conveniently situated for all persons employed therein, a sufficient supply of wholesome drinking water.

(*2*) All such points shall be legibly marked "drinking water" in a language understood by the majority of the persons employed in the industrial premises and no such point shall be situated within six metres of any washing place, urinal or latrine except with the prior approval in writing of the competent authority.

Latrines and urinals.

12. (*1*) In every industrial premises, sufficient latrine and urinal accommodation of such types as may be prescribed shall be provided and shall be so conveniently situated as may be accessible to the employees at all times while they are in the industrial premises:

Provided that it shall not be necessary to provide separate urinals in industrial premises where less than fifty persons are employed or where the latrines are connected to a water-borne sewage system.

(*2*) The State Government may specify the number of latrines and urinals which shall be provided in any industrial premises in proportion to any number of male and female employees ordinarily employed therein, and may provide for such further matters in respect of sanitation in the industrial premises including obligation of the employees in this regard as it may consider necessary in the interest of the health of the persons employed therein.

Washing facilities.

13. In every industrial premises, where blending or sieving or both of tobacco or warming of beedi in hot ovens is carried on, the employer shall provide such washing facilities for the use of the employees, as may be prescribed.

Creches.

14. (*1*) In every industrial premises wherein more than fifty female employees are ordinarily employed, there shall be provided

and maintained a suitable room or rooms for the use of children under the age of six years of such female employees.

(2) Such rooms shall—

(a) provide adequate accommodation;

(b) be adequately lighted and ventilated;

(c) be maintained in a clean and sanitary condition;

(d) be under the charge of women trained in the care of children and infants.

(3) The State Government may make rules,—

(a) prescribing the location and the standards in respect of construction, accommodation, furniture and other equipment of rooms to be provided under this section;

(b) requiring the provision in any industrial premises to which this section applies, of additional facilities for the care of children belonging to female employees, including suitable provision of facilities for washing and changing their clothing;

(c) requiring the provision in any industrial premises of free milk or refreshment or both for such children;

(d) requiring that facilities shall be given in any industrial premises for the mothers of such children to feed them at necessary intervals.

First aid.

15. Every industrial premises shall provide such first aid facilities as may be prescribed.

Canteens.

16. The State Government may, by rules, require the employer to provide and maintain in every industrial premises wherein not less than two hundred and fifty employees are ordinarily employed, a canteen for the use of the employees.

Working hours.

17. No employee shall be required or allowed to work in any industrial premises for more than nine hours in any day or for more than forty-eight hours in any week:

Provided that any adult employee may be allowed to work in such industrial premises for any period in excess of the limit fixed under this section subject to the payment of overtime wages if the period of work, including overtime work, does not exceed ten hours in any day and in the aggregate fifty-four hours in any week.

Wages for overtime work.

18. (*1*) Where any employee employed in any industrial premises is required to work overtime, he shall be entitled in respect of such overtime work, to wages at the rate of twice his ordinary rate of wages.

(2) Where the employees in an industrial premises are paid on a piece-rate basis, the overtime rate shall be calculated, for the purposes of this section, at the time rates which shall be as nearly as possible equivalent to the daily average of their full time earnings for the days on which they had actually worked during the week immediately preceding the week in which the overtime work has been done.

(3) For the purposes of this section, "ordinary rates of wages" means the basic wages plus such allowance, including the cash equivalent of the advantage accruing through the concessional sale to the employees of foodgrains and other articles as the employee is for the time being entitled to but does not include bonus.

(4) The cash equivalent of the advantage accruing through the concessional sale to an employee of foodgrains and other articles shall be computed as often as may be prescribed on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

Explanation I.—"Standard family" means a family consisting of the employee, his or her spouse and two children requiring in all three adult consumption units.

Explanation II.—"Adult consumption units" means the consumption unit of a male above the age of fourteen years; and the consumption unit of a female above the age of fourteen years and that of a child shall be calculated at the rate of eight-tenths and six-tenths, respectively, of one adult consumption unit.

Interval for rest.

19. The periods of work for employees in an industrial premises each day shall be so fixed that no period shall exceed five hours and that no employee shall work for more than five hours before he has had an interval for rest of at least half an hour.

Spread over.

20. The periods of work of an employee in an industrial premises shall be so arranged that inclusive of his intervals for rest under section 19, they shall not spread over more than ten and a half hours in any day:

Provided that the Chief Inspector may, for reasons to be specified in writing, increase the spread over to twelve hours.

Weekly holidays

21. (*1*) Every industrial premises shall remain entirely closed, except for wetting of beedi or tobacco leaves, on one day in the week which day shall be specified by the employer in a notice exhibited in a conspicuous place in the industrial premises and the day so specified shall not be altered by the employer more often than once in three months and except with the previous written permission of the Chief Inspector.

(*2*) Notwithstanding anything contained in sub-section (*1*), an employee employed in the said premises for wetting of beedi or tobacco leaves on the day on which it remains closed in pursuance of sub-section (*1*), shall be allowed a substituted holiday on one of the three days immediately before or after the said day.

(*3*) For a holiday under this section, an employee shall be paid, notwithstanding any contract to the contrary, at the rate equal to the daily average of his total full time earnings for the days on which he had worked during the week immediately preceding the holiday exclusive of any overtime earnings and bonus but inclusive of dearness and other allowances.

Explanation.—The expression "total full time earnings" shall have the meaning assigned to it in section 27.

Notice of periods of work.

22. (*1*) There shall be displayed and correctly maintained in every industrial premises a notice of periods of work in such form and in such manner as may be prescribed, showing clearly for every day the periods during which the employees may be required to work.

(*2*) (*a*) A copy of the notice referred to in sub-section (*1*) shall be sent in triplicate to the Inspector having jurisdiction over the industrial premises within two weeks from the date of the grant of a licence for the first time under this Act, in the case of any industrial premises carrying on work at the commencement of this Act, and in the case of any industrial premises beginning work after such commencement, before the day on which the work is begun in the industrial premises.

(*b*) Any proposed change in the system of work which will necessitate a change in the notice referred to in sub-section (*1*) shall be notified to the Inspector in triplicate before the change is made and except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change.

Hours of work to correspond with notice under section 22.

23. No employee shall be employed in any industrial premises otherwise than in accordance with the notice of work displayed in the premises under section 22.

Prohibition of employment of children.

24. No child shall be required or allowed to work in any industrial premises.

Prohibition of employment of women or young persons during certain hours.

25. No woman or young person shall be required or allowed to work in any industrial premises except between 6 a.m. and 7 p.m.

Annual leave with wages.

26. (*1*) Every employee in an establishment shall be allowed in a calendar year leave with wages—

(*i*) in the case of an adult, at the rate of one day for every twenty days of work performed by him during the previous calendar year;

(*ii*) in the case of a young person at the rate of one day for every fifteen days of work performed by him during the previous calendar year.

Explanation.—The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during, or at the beginning or at the end of, the period of leave.

(*2*) If an employee is discharged or dismissed from service or quits employment during the course of the year, he shall be entitled to leave with wages at the rate laid down in sub-section (*1*).

(*3*) In calculating leave under this section, any fraction of leave of half a day or more shall be treated as one full day's leave and any fraction of less than half a day shall be omitted.

(*4*) If any employee does not, in any calendar year, take the whole of the leave allowed to him under sub-section (*1*), the leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of a young person.

(5) An application of an employee for the whole or any portion of the leave allowed under sub-section (*1*) shall be in writing and ordinarily shall have to be made sufficiently in advance of the day on which he wishes the leave to begin.

(6) If the employment of an employee who is entitled to leave under sub-section (*1*) is terminated by the employer before he has taken the entire leave to which he is entitled, or if having applied for leave, he has not been granted such leave, or if the employee quits his employment before he has taken the leave, the employer shall pay him the amount payable under section 27 in respect of leave not taken and such payment shall be made, where the employment of the employee is terminated by the employer, before the expiry of the second working day after such termination and where the employee quits his employment, on or before the next pay day.

(7) The leave not availed of by an employee shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal.

Wages during leave period.

27. (*1*) For the leave allowed to him under section 26, an employee shall be paid at the rate equal to the daily average of his total full time earnings for the days on which he had worked during the month immediately preceding his leave exclusive of any overtime earnings and bonus but inclusive of dearness and other allowances.

Explanation.—In this sub-section, the expression "total full time earnings" includes the cash equivalent of the advantage accruing through the concessional sale to employees of foodgrains and other articles, as the employee is for the time being entitled to, but does not include bonus.

(2) An employee who has been allowed leave for not less than four days in the case of an adult and five days in the case of a young person, shall, before his leave begins, be paid wages due for the period of the leave allowed.

Application of the Payment of Wages Act, 1936 to industrial premises.

28. (*1*) Notwithstanding anything contained in the Payment of Wages Act, 1936 (hereinafter referred to in this section as the said Act), the State Government may, by notification in the Official Gazette, direct that all or any of the provisions of the said Act or the rules made thereunder shall apply to all or any class of employees in establishment or class of establishments to which this Act applies and on such application of the provisions of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the

4 of 1936.

purposes of the enforcement of such provisions of the said Act within the local limits of his jurisdiction.

(2) The State Government may, by a like notification, cancel or vary any notification issued under sub-section (1).

Special provisions.

29. (1) The State Government may permit the wetting or cutting of beedi or tobacco leaves by employees outside the industrial premises on an application made to it by the employer on behalf of such employees.

(2) The employer shall maintain in the prescribed form a record of the work permitted under sub-section (1) to be carried on outside the industrial premises.

(3) Save as otherwise provided in this section, no employer shall require or allow any manufacturing process connected with the making of beedi or cigar or both to be carried on outside the industrial premises:

Provided that nothing in this sub-section shall apply to any labour who is given raw material by an employer or a contractor for being made into beedi or cigar or both at home.

Onus as to age.

30. (1) When any act or omission would, if a person were under a certain age, be an offence punishable under this Act and such person is, in the opinion of the court, *prima facie* under such age, the burden shall be on the accused to prove that such person is not under such age.

(2) A declaration in writing by a medical officer not below the rank of a Civil Assistant Surgeon relating to an employee that he has personally examined him and believes him to be under the age stated in such declaration, shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that employee.

Notice of dismissal.

31. (1) No employer shall dispense with the services of an employee who has been employed for a period of six months or more, except for a reasonable cause, and without giving such employee at least one month's notice or wages in lieu of such notice:

Provided that such notice shall not be necessary if the services of such employee are dispensed with on a charge of misconduct supported by satisfactory evidence recorded at an inquiry held by the employer for the purpose.

(2) (a) The employee discharged, dismissed or retrenched may appeal to such authority and within such time as may be prescribed either on the ground that there was no reasonable cause for dispensing with his services or on the ground that he had not been guilty of misconduct as held by the employer or on the ground that such punishment of discharge or dismissal was severe.

(b) The appellate authority may, after giving notice in the prescribed manner to the employer and the employee, dismiss the appeal or direct the reinstatement of the employee with or without wages for the period during which he was kept out of employment or direct payment of compensation without reinstatement or grant such other relief as it deems fit in the circumstances of the case.

(3) The decision of the appellate authority shall be final and binding on both the parties and be given effect to within such time as may be specified in the order of the appellate authority.

Penalty for obstructing Inspector.

32. Whoever obstructs the Chief Inspector or an Inspector in the exercise of any powers conferred on him by or under this Act, or fails to produce on demand by the Chief Inspector or an Inspector any register or other document kept in his custody in pursuance of this Act or of any rules made thereunder, or conceals or prevents any employee in an industrial premises from appearing before or being examined by the Chief Inspector or an Inspector, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

General penalty for offence.

33. (1) Save as otherwise expressly provided in this Act, any person who contravenes any of the provisions of this Act or of any rule made thereunder, or fails to pay wages or compensation in accordance with any order of the appellate authority passed under clause (b) of sub-section (2) of section 31, shall, be punishable, for the first offence, with fine which may extend to two hundred and fifty rupees and for a second or any subsequent offence with imprisonment for a term which shall not be less than one month or more than six months or with fine which shall not be less than one hundred rupees or more than five hundred rupees or with both.

(2) (a) Any employer who fails to reinstate any employee in accordance with the order of the appellate authority passed under clause (b) of sub-section (2) of section 31, shall be punishable with fine which may extend to two hundred and fifty rupees.

(b) Any employer, who, after having been convicted under clause (a), continues, after the date of such conviction, to fail to reinstate

an employee in accordance with the order mentioned in that clause, shall be punishable, for each day of such default, with fine which may extend to twenty rupees.

(c) Any Court trying an offence punishable under this sub-section may direct that the whole or any part of the fine, if realised, shall be paid, by way of compensation, to the person, who, in its opinion, has been injured by such failure.

4 of 1936. (3) Notwithstanding anything contained in the Payment of Wages Act, 1936 with regard to the definition of wages, any compensation required to be paid by an employer under clause (*b*) of sub-section (2) of section 31 but not paid by him shall be recoverable as delayed wages under the provisions of that Act.

(4) It shall be no defence in a prosecution of any person for the contravention of the provisions of section 3 that any manufacturing process connected with the making of beedi or cigar or both was carried on by such person himself or by any member of his family or by any other person living with or dependent on such person.

Offences by companies.

34. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was incharge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(*a*) "company" means anybody corporate and includes a firm, and other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Indemnity.

35. (*1*) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

(*2*) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Cognizance of offences.

36. (*1*) No Court shall take cognizance of any offence punishable under this Act except upon a complaint made by, or with the previous sanction in writing of the Chief Inspector or an Inspector within three months of the date on which the alleged commission of the offence came to the knowledge of the Inspector:

Provided that where the offence consists of disobeying a written order made by the competent authority, the Chief Inspector or an Inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

(*2*) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

Application of the Industrial Employment (Standing Orders) Act, 1946 and the Maternity Benefit Act, 1961.

37. (*1*) The provisions of the Industrial Employment (Standing Orders) Act, 1946 shall apply to every industrial premises wherein fifty or more persons are employed or were employed on any one day of the preceding twelve months as if such industrial premises were an industrial establishment to which that Act has been applied by a notification under sub-section (*3*) of section 1 thereof, and as if the employee in the said premises were a workman within the meaning of that Act. 20 of 1946.

(*2*) Notwithstanding anything contained in sub-section (*1*), the State Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply all or any of the provisions of the Industrial Employment (Standing Orders) Act, 1946, to any industrial premises wherein less than fifty employees are employed or were employed on any one day of the preceding twelve months as if such industrial premises were an industrial establishment to which that Act has been applied by a notification under sub-section (3) of section 1 thereof, and as if the 20 of 1946.

employee in the said premises were a workman within the meaning of that Act.

53 of 1961. (3) Notwithstanding anything contained in the Maternity Benefit Act, 1961, the provisions of that Act shall apply to every establishment as if such establishment were an establishment to which that Act has been applied by a notification under sub-section (1) of section 2 thereof.

62 of 1948. **38.** (1) Chapter IV and section 85 of the Factories Act, 1948 shall apply to an industrial premises and the rest of the provisions in that Act shall not apply to any industrial premises. Certain provisions not to apply to industrial premises.

(2) Nothing contained in any law relating to the regulation of the conditions of work of workers in shops or commercial establishments shall apply to any establishment to which this Act applies.

14 of 1947. **39.** (1) The provisions of the Industrial Disputes Act, 1947 shall apply to matters arising in respect of every industrial premises. Application of the Industrial Disputes Act, 1947.

(2) Notwithstanding anything contained in sub-section (1), a dispute between an employer and employee relating to—

(a) the issue by the employer of raw-materials to the employees,

(b) the rejection by the employer of beedi or cigar or both made by an employee,

(c) the payment of wages for the beedi or cigar or both rejected by the employer,

shall be settled by such authority and in such summary manner as the State Government may by rules specify in this behalf.

(3) Any person aggrieved by a settlement made by the authority specified under sub-section (2) may prefer an appeal to such authority and within such time as the State Government may, by notification in the Official Gazette, specify in this behalf.

(4) The decision of the authority specified under sub-section (3) shall be final.

40. (1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the terms of any award, agreement, or contract of service whether made before or after the commencement of this Act: Effect of laws and agreements inconsistent with this Act.

Provided that where under any such award, agreement, contract of service or otherwise an employee is entitled to benefits in respect of any matters which are more favourable to him than those to which he will be entitled to under this Act, the employee shall continue to be entitled to the more favourable benefits in respect of that matter notwithstanding that he receives benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed as precluding any employee from entering into an agreement with an employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Act.

Power to exempt.

41. The State Government may, by notification in the Official Gazette, exempt, subject to such conditions and restrictions as it may impose, any class of industrial premises or class of employers or employees from all or any of the provisions of this Act or of any rules made thereunder:

Provided that nothing in this section shall be construed as empowering the State Government to grant any exemption in respect of any woman employee from any of the provisions of this Act or any rules made thereunder relating to annual leave with wages, maternity benefits, creches, wages, rejection of beedi or cigar and night work.

Powers of Central Government to give directions.

42. The Central Government may give directions to a State Government as to the carrying into execution of the provisions of this Act.

Act not to apply to self-employed persons in private dwelling houses.

43. Nothing contained in this Act shall apply to the owner or occupier of a private dwelling house who carries on any manufacturing process in such private dwelling house with the assistance of the members of his family living with him in such dwelling house and dependent on him:

Provided that the owner or occupier thereof is not an employee of an employer to whom this Act applies.

Explanation.—For the purposes of this section,"family" means the spouse and children of the owner or occupier.

Power to make rules.

44. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the terms and conditions subject to which a licence may be granted or renewed under this Act and the fees to be paid in respect of such licence;

(*b*) the form of application for a licence under this Act and the documents and plans to be submitted together with such application;

(*c*) other matters which are to be taken into consideration by the competent authority for granting or refusing a licence;

(*d*) the time within which, the fees on payment of which and the authority to which, appeals may be preferred against any order granting or refusing to grant a licence;

(*e*) the submission of a monthly return by an employer to the competent authority specifying the quantity of tobacco released by the Central Excise Department and the number of beedi or cigar or both manufactured by him;

(*f*) the powers which may be conferred on the Inspectors under this Act;

(*g*) the standards of cleanliness required to be maintained under this Act;

(*h*) the standards of lighting, ventilation and temperature required to be maintained under this Act;

(*i*) the types of urinals and latrines required to be provided under this Act;

(*j*) the washing facilities which are to be provided under this Act;

(*k*) canteens;

(*l*) the form and manner of notice regarding the periods of work;

(*m*) the form in which records of work done outside an establishment shall be maintained;

(*n*) the authority to which and the time within which an appeal may be filed by a dismissed, discharged or retrenched employee;

(*o*) the manner in which the cash equivalent of the advantage accruing through the concessional sale to an employee of foodgrains and other articles shall be computed;

(*p*) the records and registers that shall be maintained in an establishment for the purpose of securing compliance with the provisions of this Act and the rules made thereunder;

(*q*) the maintenance of first aid boxes or cupboards and the contents thereof and the persons in whose charge such boxes shall be placed;

(*r*) the manner in which sorting or rejection of beedi or cigar or both and disposal of rejected beedi or cigar or both shall be carried out;

(*s*) the fixation of maximum limit of the percentage of rejection of beedi or cigar or both manufactured by an employee;

(*t*) specifying the place at which wages shall be paid to persons who receive directly or through an agent raw-materials for the manufacture of beedi or cigar or both at home;

(*u*) supervision by the Inspectors over distribution of raw-materials including beedi and tobacco leaves to the employees;

(*v*) precautions to be taken against fire for the safety of workers;

(*w*) authority by which and the manner in which a dispute as to the issue of raw-materials shall be settled and the authority to which an appeal shall lie from the settlement made by the first-mentioned authority;

(*x*) any matter which is required to be, or may be, prescribed.

(*3*) All rules made under this Act shall be published in the Official Gazette and shall be subject to the condition of previous publication; and the dates to be specified under clause (*3*) of section 23 of the General Clauses Act, 1897, shall not be less than three months from the date on which draft of the proposed rules was published. 10 of 1897.

STATEMENT OF OBJECTS AND REASONS

The working conditions prevailing in the beedi and cigar establishments are unsatisfactory. Though at present the Factories Act, 1948 applies to such establishments, there has been a tendency on the part of employers to split their concerns into smaller units and thus escape from the provisions of the said Act. A special feature of the industry is the manufacture of beedis through contractors and by distributing work in the private dwelling houses where the workers take the raw materials given by the employers or the contractors. Employer-employee relationship not being well defined the application of the Factories Act has met with difficulties. The labour is unorganised and not able to look after its interests.

2. One or two State Governments passed special Acts to regulate the conditions of work of these workers but found themselves unable to enforce the law owing to the fact that the industry is highly mobile and tended to move on to an area where no such restrictive laws prevailed. It became necessary therefore to have Central legislation on the subject. The Bill seeks to provide for the regulation of the contract system of work, licensing of beedi and cigar industrial premises and matters like health, hours of work, spread-over, rest periods, overtime, annual leave with pay, distribution of raw-materials, etc.

3. The main provisions of the Bill have been explained in the notes on clauses.

D. SANJIVAYYA.

NEW DELHI;
The 9th December, 1965.

Notes on clauses

Clause 2.—This clause defines the various terms occurring in the Bill.

Clause 3.—This clause prohibits use of any place or premises as industrial premises without a licence.

Clause 4.—This clause provides for licensing of industrial premises and the matters to be taken into account in granting or refusing a licence.

Clause 5.—This clause provides for appeals where the grant or renewal of a licence has been refused or a licence has been cancelled or suspended.

Clause 6.—This clause provides for the appointment of Inspectors for the purposes of the Bill.

Clause 7.—This clause empowers Inspectors to carry inspection, enter premises, etc., to ensure compliance with the provisions of the law.

Clauses 8 *to* 16.—These clauses make provision for cleanliness, ventilation, prevention of overcrowding, drinking water, latrines and urinals, washing facilities, creches, first aid and canteens in industrial premises.

Clause 17.—Under this clause daily and weekly hours of work have been fixed.

Clause 18.—This clause provides for payment of wages at twice the rate of the ordinary rate of wages for overtime work.

Clause 19.—This clause provides for interval for rest of half an hour after five hours of work.

Clause 20.—This clause provides that the daily hours of work shall not spread over more than ten and a half hours, which, with the permission of the Chief Inspector can be increased to 12 hours.

Clause 21.—This clause provides for a paid weekly holiday for every employee in an industrial premises, which is to remain entirely closed on one day in the week except for wetting of beedi or tobacco leaves; for such work the employees will be given a substituted holiday on one of the three days immediately before or after the said day.

Clause 22.—This clause requires a notice of periods of work to be displayed in every industrial premises and copies of notice being sent to Inspector. Any change in the notice is to be notified to the Inspector.

Clause 23.—This clause provides that the employees shall be employed in accordance with the notice of work.

Clause 24.—This clause prohibits employment of children in any industrial premises.

Clause 25.—This clause prohibits employment of women and young persons between 7 p.m. and 6 a.m.

Clause 26.—This clause provides for the grant of annual leave with wages—

(*i*) in the case of an adult at the rate of one day for every twenty days of work performed by him;

(*ii*) in the case of a young person at the rate of one day for every fifteen days of work performed by him.

Any employee who is discharged or dismissed or quits employment shall be entitled to leave. If the services of any employee are terminated he is to be paid wages in respect of leave not taken.

Clause 27.—This clause provides for wages during leave being paid at the rate equal to the daily average of the total full time earnings during the month.

Clause 28.—This clause empowers the State Governments to apply the Payment of Wages Act, 1936 or any of its provisions to any establishment or class of establishment.

Clause 29.—This clause empowers State Governments to permit wetting or cutting of beedi or tobacco leaves outside the industrial premises and for maintenance of records of the work permitted by the employer.

Clause 30.—This clause provides that the onus as to age shall be on the accused, the certificate of the medical officer being admissible as evidence of age of the employee concerned.

Clause 31.—This clause provides for the giving of notice to an employee employed for not less than six months, one month's notice or wages in lieu thereof before his services can be dispensed with except on the ground of misconduct. There is a provision for appeal against the discharge or dismissal of an employee.

Clause 32.—This clause provides a penalty of imprisonment up to three months or a fine up to rupees five hundred or both for obstructing an Inspector in the discharge of his duties.

Clause 33.—This clause provides for a general penalty of fine up to rupees two hundred and fifty for the first offence and of imprisonment of not less than one month and not more than six months, or fine of not less than one hundred rupees and not more than five hundred rupees or both for a second or a subsequent offence under the Bill or any rule made thereunder

Clause 34.—This clause makes offences by companies cognizable.

Clause 35.—This clause gives protection for anything done in good faith.

Clause 36.—This clause provides for prosecutions being made with the sanction of the Chief Inspector or an Inspector.

Clause 37.—This clause relates to the application of the Industrial Employment (Standing Orders) Act, 1946 to certain industrial premises and of the Maternity Benefit Act, 1961, to every establishment.

Clause 38.—This clause provides that Chapter IV and section 85 of the Factories Act, 1948 shall apply to industrial premises.

Clause 39.—This clause makes the Industrial Disputes Act, 1947 applicable to matters arising in respect of every industrial premises and provides for the settlement of disputes regarding the issue of raw materials, rejection of beedis, etc., by such authority and in such summary manner as the State Government may by rules specify in this behalf.

Clause 40.—This clause ensures that where an employee is entitled to benefits which are more favourable than those provided for in the Bill he shall continue to enjoy those benefits.

Clause 41.—This clause provides for exemption from the provisions of the Bill in certain cases.

Clause 42.—This clause gives powers to the Central Government to give directions to the State Governments.

Clause 43.—This clause clarifies that the self-employed workers are exempted from the provisions of this Act.

Clause 44.—This clause confers rule making powers on the State Governments to carry out the purposes of the Bill.

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for the appointment of Inspectors by State Governments for the purposes of the Bill. In the case of the Union territories the existing staff will be employed to the extent possible in connection with the enforcement of the Bill. Still it may be necessary to engage new staff, from time to time, depending upon the volume of work. This is expected to involve an expenditure of a sum, not exceeding Rs. 10,000, per annum from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 44 of the Bill empowers the State Governments to make rules for carrying out the purposes of the Bill. The matters in respect of which rules may be made relate, *inter alia*, to the terms and conditions subject to which a licence may be granted or renewed, the fees to be paid for licence, submission of monthly return regarding quantity of tobacco released by the Central Excise Department, time within which appeals under the Act are to be preferred, records and registers to be maintained by employers, maintenance of first aid boxes, manner in which the sorting or rejection of beedis or cigars or both and disposal of rejected beedis shall be carried out, supervision by Inspector over distribution of raw-materials.

2. These matters pertain to procedure, form or detail and as such the delegation of legislative power is of a normal character.

B. N. BANERJEE
Secretary

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1965.